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THESIS

**HUMAN TRAFFICKING AND U.S. GOVERNMENT
RESPONSES POST-9/11**

by

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September 2016

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HUMAN TRAFFICKING AND U.S. GOVERNMENT RESPONSES POST-9/11

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ABSTRACT

The thesis examines the effectiveness of U.S. government anti-human trafficking efforts in the post-9/11 environment. The body of human trafficking literature has revealed four common themes: human agency, labor rights, the sex industry, and crime control. The thesis examines five federal departments that were selected based on their relative experience, expertise, and operational mandates. Open source statistical data and other information gleaned from documents, articles, and reports determine how each department's efforts to combat human trafficking correlate to the four main human trafficking themes. The thesis has illuminated that through experience and initiative, the applicable federal departments properly identify and balance the external and internal aspects of human trafficking. The current state of federal efforts to combat human trafficking are encouraging, as they provide sufficient remedies to trafficking victims who are marginalized, disenfranchised, or subjugated, and provide some trafficking disincentives. These efforts are steps toward the global paradigm shift required to eliminate the exploitation of vulnerable populations and individuals.

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LIST OF ACRONYMS AND ABBREVIATIONS

ACT	Anti-Trafficking Coordination Teams
BJA	Bureau of Justice Assistance
BDS	Bureau of Diplomatic Security
C3	Cyber Crimes Center
CACU	Crimes Against Children Unit
CBP	Customs and Border Protection
CEOS	Child Exploitation and Obscenity Section
CP	continued presence
CRT	Civil Rights Division
CRU	Civil Rights Unit
DHS	Department of Homeland Security
DOJ	Department of Justice
DOL	Department of Labor
DOS	Department of State
DOT	Department of Transportation
ETA	Employment and Training Administration
FBI	Federal Bureau of Investigation
FLC	Foreign Labor Certification
FLETC	Federal Law Enforcement Training Center
HHS	Department of Health and Human Services
HSI	Homeland Security Investigations
HSTC	Human Smuggling and Trafficking Center
HSTU	Human Smuggling and Trafficking Unit
HTPU	Human Trafficking Prosecution Unit
HTU	Human Trafficking Unit
ICE	Immigration and Customs Enforcement
ILAB	Bureau of International Labor Affairs
ILO	International Labor Organization
IRTPA	Intelligence Reform and Terrorism Prevention Act
List	List of Goods Produced by Child Labor or Forced Labor

NGO	non-governmental organization
NHTRC	National Human Trafficking Resource Center
NSN	National Survivors Network
OIG	Office of the Inspector General
ORR	Office of Refugee Resettlement
OVC	Office for Victims of Crime
PITF	President’s Interagency Task Force
RFJP	Rewards for Justice Program
SIA	special interest alien
SOC	standard occupational classification
SWT	Summer Work and Travel Program
TIP	trafficking in persons
TVPA	Trafficking Victims Protection Act
TVPRA	Trafficking Victims Protection Reauthorization Act
UN	United Nations
USAO	U.S. Attorney’s Offices
VAP	Victim Assistance Program
VCACS	Violent Crimes Against Children Section
WHD	Wage and Hour Division

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I. INTRODUCTION

The current U.S. government understanding of human trafficking is reflected by the Department of State (DOS) website, which acknowledges that

the United States is a source, transit, and destination country for men, women, and children—both U.S. citizens and foreign nationals—subjected to sex trafficking and forced labor, including domestic servitude. Trafficking can occur in both legal and illicit industries or markets, including in brothels, escort services, massage parlors, strip clubs, street prostitution, hotel services, hospitality, sales crews, agriculture, manufacturing, janitorial services, construction, health and elder care, and domestic service. Individuals who entered the United States with and without legal status have been identified as trafficking victims, including participants in visa programs for temporary workers who filled labor needs in many of the industries described above.¹

After decades of conceptual debate, the DOS's all-encompassing explanatory definition underscores the complexities of the issues and the difficulties of operationalizing remedies. The varied nature of human trafficking cuts across many governmental interests concerning legal structures, economics, and human rights. Human trafficking is pervasive and is deeply embedded at the core of the national security interests of the United States, including illicit criminal smuggling networks, crimes against children, and human rights violations, much of which is incentivized to continue by domestic forces of supply and demand.

The thesis is organized into chapters that address the main issues posed by my research question. The first and second chapters include in-depth discussion of the practical and theoretical human trafficking and national security discourse with emphasis on the legal framework, economic structure, and human rights elements of human trafficking highlighting the various conceptual controversies and clarifying the most effective measures of combating human trafficking. The follow-on chapters consider DOS, the Department of Justice (DOJ), the Department of Homeland Security (DHS), the

¹ “United States, Office to Monitor and Combat Trafficking in Persons 2014 Trafficking in Persons Report,” accessed December 14, 2015, <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226844.htm>.

Department of Health and Human Services (HHS), and the Department of Labor (DOL) as individual case studies that examine their post-9/11 anti-trafficking efforts against the metrics of agency, labor, the sex industry, and crime control. This analysis shows how post-9/11 priorities have been reflected in the specific departments' anti-trafficking efforts.

A. MAJOR RESEARCH QUESTION

What effect has post-9/11 anti-terrorism initiatives had on human trafficking within the United States? The review of the human trafficking literature has revealed four common themes: human agency, labor rights, the sex industry, and crime control. The thesis examines five federal departments that were selected based on their relative experience, expertise, and operational mandates. Open source statistical data and other information gleaned from documents, articles, and reports determine how each department's efforts to combat human trafficking correlate to the four main human trafficking themes.

B. SIGNIFICANCE OF THE RESEARCH QUESTION

After the events of September 11, 2001, the U.S. government has used the platform on human trafficking developed by the United Nations Palermo Protocol and the Trafficking Victims Protection Act (TVPA) to guide anti-human trafficking efforts in a positive way, with an emphasis on securitization and crime control rationale with appropriate sensitivities to human rights. Still, in the post-9/11 environment, refocused U.S. efforts have overlooked many of the structural incentives that provide the foundations for the commoditization of humans, which are in parallel with the many security and human rights threats inherent in all forms of human trafficking.

The same networks, routes, and incentives that drive human trafficking can support human smuggling as well. Emmanuel Obuah highlights that although it was known for decades that security threats could be both smuggled or trafficked across international borders, the very real threat to state security by human smuggling and its close relative, human trafficking, only "became apparent to policy makers after the events

of September 11, 2001.”² The terror attacks of 2001 prompted policy makers to take a more “proactive and aggressive,” as well as “overt and robust” position against anti-trafficking in response to potential state security threats.³ Policy makers and lobbyists quickly connected foreign security threats, human smuggling, and trafficking with emphasis on disabling specters of organized criminal networks.⁴

C. BACKGROUND

After the abolition of chattel slavery of the 19th century, the United States primarily combated trafficking through the Mann Act of 1910, which prohibited the transportation of prostitutes across state lines, the Smoot-Hawley Act of 1930, which prohibited “the importation of goods manufactured with forced labor;” and federal law 1581 of 1948, “which criminalized peonage.”⁵ The political restructuring of the post-Cold War world revealed several discrepancies in the effectiveness of current laws regarding human trafficking.⁶

1. Legal Framework

U.S. federal anti-trafficking legislation, the Trafficking Victims Protection Act, was created as the U.S. response to the concerted efforts by the United Nations (UN) to wrangle global issues, including human trafficking, known as the Palermo Protocol.

a. UN Palermo Protocol

As the 19th century closed, state-sponsored slavery that formerly “characterized the growth and expansion of capitalism” had been outlawed by most states.⁷ During the 20th century, Western nations focused on protecting other vulnerable populations, such

² Emmanuel Obuah, “Combating Global Trafficking in Persons: The Role of the United States Post-September 2001,” *International Politics* 43, no. 2 (2006): 253, doi:10.1057/palgrave.ip.8800142.

³ Ibid., 262.

⁴ Ibid., 253.

⁵ Ibid., 250.

⁶ Ibid., 251.

⁷ Ibid., 244.

as women, from prostitution and native people from colonial forced labor.⁸ The first major initiative to create a “*jus cogen[s]*” global understanding of the reprehensible nature of slavery and forced labor of all kinds came in 1948 with the Universal Declaration of Human Rights.⁹

As the political global structure shifted, and as the millennium approached, the UN undertook a concerted effort to curtail human trafficking. Under the umbrella of a convention against organized crime, the UN developed a “Protocol to Prevent, Suppress, and Punish the Trafficking in Persons” known as the Palermo Protocol.¹⁰ The Palermo Protocol narrowed the scope of human trafficking to three elements, which include “an action (moving persons), a means (coercion, abuse, etc.), and a purpose (exploitation).”¹¹ The new millennium brought global attention to the scourges of human trafficking and provoked a wider debate regarding economics and human rights.

b. Trafficking Victims Protection Act

President Clinton signed the TVPA on October 28, 2000.¹² This statute, Pub. L. No. 106–386, was “the centerpiece of the U.S. Government efforts to eliminate trafficking in persons.”¹³ With support throughout Congress bolstered by religious, social, and security-centric non-governmental organizations (NGOs), the TVPA criminalized human trafficking at the federal level.¹⁴ Attempting to fill the gaps while maintaining the overarching goal of combating human trafficking, the TVPA approaches

⁸ Obuah, “Combating Global Trafficking,” 244.

⁹ Ibid.

¹⁰ Ibid., 245.

¹¹ Wendy H. Wong, “Is Trafficking Slavery? Anti-Slavery International in the Twenty-first Century,” *Human Rights Review* 12, no. 3 (2010): 317, doi:10.1007/s12142-010-0189-0.

¹² Yvonne C. Zimmerman, “From Bush to Obama: Rethinking Sex and Religion in the United States’ Initiative to Combat Human Trafficking,” *Journal of Feminist Studies in Religion* 26, no. 1 (2010): 81, doi:10.2979/fsr.2010.26.1.79.

¹³ United States Attorney-General, *Attorney General’s Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2007* (Washington, DC: U.S. Department of Justice, 2008), 1, <https://www.justice.gov/archive/ag/annualreports/tr2007/agreporthumantrafficking2007.pdf>.

¹⁴ Zimmerman, “From Bush to Obama,” 81.

the industry through “prevention, protection, and prosecution.”¹⁵ The TVPA provides regulations for “all forms of forced labor, [but] a special concern for *sex* trafficking is not difficult to detect.”¹⁶

The bias in the TVPA of 2000 is toward the sex industry, particularly the migrant sex industry, as the “primary culprit in the proliferation of human trafficking,”¹⁷ which disregards the structural and demand-based forces dictating, “the worldwide market for labor is far greater than that for sex.”¹⁸ With an eye toward disincentivizing the trafficking industry, the goal of the TVPA’s increased enforcement measures was to turn the commoditization of people into a “high risk-low profit enterprise.”¹⁹

With a “borders out” framework, the TVPA’s annual requirements include the enforcement of global trafficking standards and the ranking of countries.²⁰ Those “nations that fail to comply with the Act’s minimum standards ... are subject to non-humanitarian and non-trade related sanctions.”²¹ On the protection front of trafficking, the most significant measure is the implementation of the T-visa, where victims of “a severe form of trafficking” can remain in the United States and assist with the prosecution of their traffickers.²² On the prosecution front of trafficking, the TVPA has increased the maximum sentence for less severe forms of human trafficking from 10 years to 20 years, and for the severest forms, life in prison.²³

Since the act was established, the TVPA has been amended and transformed to meet the evolving attitudes and conceptualizations of human trafficking and is better

¹⁵ Kara C. Ryf, “The First Modern anti-Slavery Law: The Trafficking Victims Protection Act of 2000,” *Case Western Reserve Journal of International Law* 34, no. 1 (Winter 2002): 53.

¹⁶ Zimmerman, “From Bush to Obama,” 82.

¹⁷ Ibid.

¹⁸ David A. Feingold, “Human Trafficking,” *Foreign Policy* 150 (September/October 2005): 26.

¹⁹ Ryf, “The First Modern anti-Slavery Law,” 53.

²⁰ Ibid., 56.

²¹ Ibid.

²² Ibid., 58.

²³ Ibid., 59.

suited holistically to serve anti-trafficking efforts. The TVPA has been reauthorized and amended four times, each time broadening reach to both victims and perpetrators and increasing accountability for by-standing individuals, organizations, and governments. The Office of the U.S. Attorney General relates that

the TVPA's passage in 2000 allowed for the possible investigation and prosecution of new crimes, namely forced labor; trafficking with respect to peonage, slavery, involuntary servitude, or forced labor; sex trafficking of children or by force, fraud, or coercion; unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor; and attempts to engage in these behaviors.²⁴

In the spirit of protection, prosecution, and prevention, the TVPA of 2000 was effective. The act emphasized victim protection “by making trafficking victims eligible for federally funded or administered health and other benefits and services.”²⁵ The act emphasized prosecution by “creat[ing] new crimes and enhanced penalties for existing [trafficking] crimes.”²⁶ The act emphasized prevention by offering “assistance to foreign countries in drafting laws to prohibit and punish acts of trafficking,”²⁷ and by “creat[ing] the Interagency Task Force to Monitor and Combat Trafficking.”²⁸

In December 2003, the first TVPA reauthorization, Pub. L. No. 108–193, was signed by President George W. Bush and increased the U.S. government's anti-trafficking capabilities.²⁹ The Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA 2003) “mandated new information campaigns to combat sex tourism,

²⁴ United States Attorney-General, *Report to Congress from Attorney General John Ashcroft on U.S. Government Efforts to Combat Trafficking in Persons in Fiscal Year 2003* (Washington, DC: U.S. Department of Justice, 2004), 19, <https://www.justice.gov/archive/ag/annualreports/tr2003/050104agreporittocongressstvprav10.pdf>.

²⁵ United States Attorney-General, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2006* (Washington, DC: U.S. Department of Justice, 2007), 1, <https://www.justice.gov/archive/ag/annualreports/tr2006/agreporhumantrafficking2006.pdf>.

²⁶ *Ibid.*, 2.

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ *Ibid.*

added refinements to the federal criminal law provisions, and created a new civil action that allows trafficking victims to sue their traffickers in federal district court.”³⁰

The second TVPA reauthorization, Pub. L. No. 109–164, was signed by Bush on January 10, 2006.³¹ The Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA 2005) included changes, such as the creation of new “grant programs to assist state and local law enforcement efforts in combating TIP, expan[sion of] victim assistance programs to U.S. citizens or resident aliens subjected to trafficking,”³² and the extension of “extraterritorial jurisdiction over trafficking offenses committed overseas by persons employed by or accompanying the federal government.”³³

The third reauthorization of the TVPA, Pub. L. No. 110–457, was signed in 2008 by President Bush.³⁴ The Trafficking Victims Protection Act of 2008 (TVPRA 2008) “creates new crimes imposing severe penalties on those who ... obstruct the investigations,” and “broadens the crime of sex trafficking” by not requiring the government to prove that the defendants “actually knew” the victim’s age or intended to use “force, fraud, or coercion.”³⁵

With respect to labor trafficking, the TVPRA of 2008 has been broadened to implicate those who have “intent to defraud” and for those “conspiring to commit trafficking related crimes.”³⁶ The act also creates liability for third parties who benefit from sex or labor trafficking and extends the extraterritorial prosecutorial reach of the United States to charge U.S. persons for acts committed abroad.³⁷

³⁰ United States Attorney-General, *Fiscal Year 2006*, 2.

³¹ *Ibid.*, 3.

³² *Ibid.*

³³ *Ibid.*

³⁴ United States Attorney-General, *Attorney General’s Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2008* (Washington, DC: U.S. Department of Justice, 2009), 3, <https://www.justice.gov/archive/ag/annualreports/tr2008/agreporhumantrafficking2008.pdf>.

³⁵ *Ibid.*

³⁶ *Ibid.*, 4.

³⁷ *Ibid.*

The most recent reauthorization of the TVPA, Pub L. No. 113–4, was signed by President Obama in 2013.³⁸ The Trafficking Victims Protection Reauthorization Act of 2013 (TVPRA 2013), “build[s] partnerships” and “ensure[s] that U.S. Citizens do not use items ... produced or extracted with the use and labor of human trafficking victims.”³⁹ The act requires stricter contract regulations and immigration document controls, and it provides prosecutorial remedies with the racketeer influenced and corrupt organizations statute.⁴⁰

2. Economic Incentives

Human trafficking “represents a global demand for cheap and vulnerable labor which is facilitated by the process of globalization.”⁴¹ The economic foundation for human trafficking is supply and demand.⁴² Various incentives are creating both “push” and “pull” factors into human trafficking from sources, such as global instability in the post-Cold War world and “transportation and communication” advances that ease both legitimate and illicit commerce.⁴³ Edward Schauer and Elizabeth Wheaton contend that “poverty leads to desperation,” especially, “when population grows faster than the economic growth of a country.”⁴⁴

The economics of human trafficking is “characterized by commoditization of human lives in which monetary value is attached to ... [a] life,”⁴⁵ thereby, “turning

³⁸ United States Attorney-General, *Attorney General’s Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2013* (Washington, DC: U.S. Department of Justice, 2013), 5, <https://www.justice.gov/archive/ag/annualreports/agreporthumantrafficking2013.pdf>.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Obuah, “Combating Global Trafficking,” 241.

⁴² Ibid., 247.

⁴³ Ibid.

⁴⁴ Schauer and Wheaton, “Sex Trafficking into the United States,” 161–62.

⁴⁵ Obuah, “Combating Global Trafficking,” 248.

people into commodities robbed of autonomy.”⁴⁶ Schauer and Wheaton highlight that “the purpose of all forms of human trafficking is to make money through the exploitation of the susceptible. Therefore, economics is the link between the vulnerability of populations and the crime of human trafficking.”⁴⁷ The United States is committed to fighting human trafficking “to sustain the legitimacy of globalization as a largely positive force for broader prosperity” and to demonstrate “that slavery is not the inexorable product.”⁴⁸ Kimberly Kotrla’s viewpoint on the state of human trafficking is firmly grounded in economic fundamentals of demand, supply, and incentive in a “ravenous market.”⁴⁹

Kara Ryf contends that human trafficking is “a low-risk and high-profit industry,” as traffickers are leniently punished.⁵⁰ In line with economic incentives, the trafficking industry includes “less overhead cost” compared to other illicit industries as “humans are a reusable commodity that can be sold and resold.”⁵¹ The trafficking of modern day slaves is actually much cheaper than that of chattel slavery of the 1800s.⁵² These economic incentives supported the rapid increase in human trafficking after the fall of the Soviet Union and increased public awareness of the issue.⁵³ The remedy to human trafficking must involve market-based forces, which can be bolstered by the educated choices made by consumers, thereby creating incentives for businesses to “take preventive action” against illegal forms of human trafficking.⁵⁴

⁴⁶ Mark P. Lagon, “The Global Abolition of Human Trafficking: The Indispensable Role of the United States,” *Georgetown Journal of International Affairs* (Winter 2011): 92.

⁴⁷ Schauer and Wheaton, “Sex Trafficking,” 161.

⁴⁸ Lagon, “The Global Abolition of Human Trafficking,” 92.

⁴⁹ Kimberly Kotrla, “Domestic Minor Sex Trafficking in the United States,” *Social Work* 55, no. 2 (2010): 182, doi:10.1093/sw/55.2.181.

⁵⁰ Ryf, “The First Modern anti-Slavery Law,” 48.

⁵¹ *Ibid.*, 50.

⁵² Kevin Bales and Ron Soodalter, *The Slave Next Door: Human Trafficking and Slavery in America Today* (Berkeley: University of California Press, 2009), 6.

⁵³ Schauer and Wheaton, “Sex Trafficking,” 162.

⁵⁴ Lagon, “The Global Abolition of Human Trafficking,” 96.

Julietta Hua highlights that it is easy to ignore driving economic principles when “traffickers are simply [viewed] as immoral entrepreneurs;” deeper analysis is required.⁵⁵ To grasp human trafficking today, it must be accepted that “undocumented labor, ... whether coerced or not, has been a necessary feature enabling legitimated capital accumulation” in a globalized economy characterized by “the global inequity in distributions of wealth.”⁵⁶ With attention on inequity, Gregg Barak reminds us that 20 percent of the population accounts “for 86 percent of all the world’s private expenditures on consumption.”⁵⁷

Debt bondage is a common cause and effect of human trafficking of foreign-born victims, as “increasingly restrictive immigration laws create an underground economy in which the returns” from trafficking are high.⁵⁸ Organizations promising “employment, modeling, [or] marriage” to young girls subjugate their victims with various unsubstantiated debts to be paid “out of future earnings.”⁵⁹ Stephanie Hepburn and Rita Simon discuss a particular case of debt bondage where young trafficked women burdened with transportation fees “would need to have sex with [approximately] 667 men before they could eliminate their debt.”⁶⁰

Arbitrage is a central economic principle of human trafficking as traffickers capitalize on the “imbalance between two markets” supplying to the greatest demands.⁶¹ Schauer and Wheaton explain the economic basis for human trafficking as they highlight that since the benefits of criminal activity, such as human trafficking, greatly outweigh

⁵⁵ Julietta Hua, “Telling Stories of Trafficking: The Politics of Legibility,” *Meridians* 12, no. 1 (2014): 206, doi:10.2979/meridians.12.1.201.

⁵⁶ Ibid.

⁵⁷ Gregg Barak, “Crime and Crime Control in an Age of Globalization: A Theoretical Dissection,” *Critical Criminology* 10 (July 2001): 58, <http://libproxy.nps.edu/login?url=http://search.proquest.com/docview/223157461?accountid=12702>.

⁵⁸ Schauer and Wheaton, “Sex Trafficking,” 156.

⁵⁹ David R. Hodge, “Sex Trafficking in the United States: A Domestic Problem with Transnational Dimensions,” *Social Work* 53, no. 2 (April 2008): 146.

⁶⁰ Stephanie Hepburn and Rita J. Simon, “Hidden in Plain Sight: Human Trafficking in the United States,” *Gender Issues* 27, no. 1–2 (2010): 5, doi:10.1007/s12147-010-9087-7.

⁶¹ Schauer and Wheaton, “Sex Trafficking,” 164.

the costs, including risks and losses of legitimate opportunities, “human trafficking will continue.”⁶² The costs are further reduced when source families, governments, and unrelated illicit industries are incentivized by benefits to provide direct or indirect support.⁶³

Schauer and Wheaton highlight that “as the markets change, traffickers ... through their diversification and plasticity have commonly been able not only to cope but also to continually increase the scope and size of their enterprise.”⁶⁴ Moisés Naím interprets actions of criminal enterprises as being “motivated by large profits obtained by exploiting international price differentials [and] unsatisfied demand [where] the incentives to successfully overcome government-imposed limits to trade are simply enormous.”⁶⁵

David Hodge emphasizes the role arbitrage plays in creating economic incentives for trafficking by illuminating the possibility of a 20-fold increase in the price of trafficked individuals as they cross international borders; trafficked individuals have the inherent potential for sustained profitability unlike the more ephemeral value found in drug trafficking.⁶⁶ To “maximize their profits,” traffickers have been known even to export victims from the United States to supply the global markets.⁶⁷ Hodge explains that the primary structural element conducive to human sex trafficking is the legalization of prostitution, or at minimum, a large sex industry.⁶⁸ Hodge highlights that the United States conforms to the latter, and it is this “demand in the sex industry that traffickers seek to supply.”⁶⁹

⁶² Schauer and Wheaton, “Sex Trafficking,” 164.

⁶³ Ibid., 165.

⁶⁴ Ibid., 155.

⁶⁵ Moisés Naím, “The Five Wars of Globalization,” *Foreign Policy*, no. 134 (January/February 2003): 35, doi:10.2307/3183519.

⁶⁶ Hodge, “Sex Trafficking in the United States,” 144.

⁶⁷ Ibid., 145.

⁶⁸ Ibid.

⁶⁹ Ibid.

Moisés Naím concludes that a fight against any illicit element must demonstrate an understanding that “beating market forces is next to impossible,” and “market incentives” will have a greater influence than government policies.⁷⁰ Combating illicit industries with “wrong ideas, false assumptions, and obsolete institutions” is “doomed to fail.”⁷¹

3. Human Rights

As a global issue, human trafficking is a “serious human rights problem [that] can only be eliminated through international cooperation,” as “trafficking presents social, health, economic, and crime problems for every nation.”⁷² Human trafficking is a “pernicious and brutal abuse of human rights.”⁷³ A main focus of international cooperation must be based on directed economic and employment policy that creates incentives away from trafficking.⁷⁴ Directing states toward a human rights centric paradigm is important because victims of trafficking “have been captured, fined, imprisoned, and deported” for various criminal and immigration violations.⁷⁵

Austin Choi-Fitzpatrick, who notes that such efforts are built on inappropriate assumptions, critiques the DOS’s efforts to rescue, rehabilitate, and reintegrate human trafficking victims.⁷⁶ The suggestions of rescue imply that the victims of trafficking have negligible agency in their current situations, the implications of rehabilitation assume that victims of trafficking have the means available to stay out poverty, and the notions of reintegration assumes the victims belong in another location.⁷⁷ Emphases on “individual

⁷⁰ Naím, “The Five Wars of Globalization,” 36.

⁷¹ Ibid.

⁷² Ryf, “The First Modern anti-Slavery Law,” 60.

⁷³ Obuah, “Combating Global Trafficking,” 242.

⁷⁴ Ryf, “The First Modern anti-Slavery Law,” 62.

⁷⁵ Ibid., 65.

⁷⁶ Austin Choi-Fitzpatrick, “Rethinking Trafficking: Contemporary Slavery,” in *From Human Trafficking to Human Rights: Reframing Contemporary Slavery*, ed. Alison Brysk (Philadelphia: University of Pennsylvania Press, 2012), 20–21.

⁷⁷ Ibid.

rights that transcend borders” are essential to combat exploitation.⁷⁸ Empowerment of all subjugated individuals is possible when “their subsequent status as a victim is clear, while their status as a worker should remain intact.”⁷⁹

Alison Brysk emphasizes that the traditional “policies based on ... neoliberal assumptions of coerced victims who can be free for other viable choices do not serve even the preponderance of their intended beneficiaries.”⁸⁰ The “individualistic emphasis” supported by much of U.S. government efforts “fails to address the wider issue of structural violence and economic determinants of all forms of trafficking, labor abuse, and exploitive smuggling.”⁸¹ Brysk contends that exploitation’s center of gravity “is powerlessness, not prostitution, and the solution to powerlessness is politics—not prohibition.”⁸²

The modern revitalization of the human trafficking discourse in the United States was heavily influenced by religious imperatives and “theological speech” that underscored the “United States’ moral obligation to address this massive human rights issue.”⁸³ Zimmerman asserts that the religious discourse has biased the human trafficking agenda to serve interests other than a reduction of human rights violations in the trafficking industries.⁸⁴ These biases occur specifically when religious organizations “place undue emphasis on ... religious credentials at the expense of their ... competency in anti-trafficking work.”⁸⁵ All aspects of society are essential to combatting human trafficking, as “the successful eradication of slavery will require the engagement of

⁷⁸ Choi-Fitzpatrick, “Rethinking Trafficking: Contemporary Slavery,” 22.

⁷⁹ Ibid., 23.

⁸⁰ Alison Brysk, “Rethinking Trafficking: Human Rights and Private Wrongs,” in *From Human Trafficking to Human Rights: Reframing Contemporary Slavery*, ed. Alison Brysk (Philadelphia: University of Pennsylvania Press, 2012), 74.

⁸¹ Ibid., 75.

⁸² Ibid.

⁸³ Zimmerman, “From Bush to Obama,” 80.

⁸⁴ Ibid.

⁸⁵ Ibid., 90.

governments, intergovernmental organizations, businesses, religious and cultural groups, social movement organizations, and individual communities.”⁸⁶

4. Post-9/11 Securitization

The post-9/11 security environment dictated a large federal response directed against foreign and transnational security threats. This paradigm was such that a unified approach was initiated to counter a tangible and externally referenced threat; it was not considered that threats could be internal, domestic, and, especially, sustained by individual’s own behavior and interests. Over time, the threat paradigm has shifted to become more introspective and appreciative of the role local authorities and individual action can have against human security threats that permeate society.

In the tradition of comparative political studies, Asaf Siniver’s edited anthology, *International Terrorism Post-9/11: Comparative Dynamics and Responses*, provides observations and analysis of the origins and interpretations of contemporary political violence and the responses of the affected states and regions. Siniver’s anthology illustrates that most instances of political violence post-9/11 are interpreted and approached in a narrow perspective, and the U.S. characterization of the global war on terror guides the international community’s response. Nations perceive the need to rise to the “challenge of adapting to a new security environment” brought about by the “new” threat of radical Islamic terrorism.⁸⁷

Siniver’s objective is to provide insight on “how various governments ... have reacted to the changing security environment” since 9/11.⁸⁸ Diverse interpretations of the perceived modern terrorist threat are manifested in various security strategies with comparative subjective and objective efficacies.⁸⁹ Following the U.S.’ lead, the international community “framed their local experiences with terrorism as their ‘own

⁸⁶ Choi-Fitzpatrick, “Rethinking Trafficking: Contemporary Slavery,” 24.

⁸⁷ Asaf Siniver, “Introduction,” in *International Terrorism Post-9/11: Comparative Dynamics and Responses*, ed. Asaf Siniver (London: Routledge, 2010), 1.

⁸⁸ Ibid.

⁸⁹ Ibid.

9/11,” and followed the U.S.’ example of the global “war fighting” archetype, focusing on offensive action against identifiable foreign jihadist enemies.⁹⁰ Siniver further argues that those nations implementing the U.S. counterterrorism strategy also follow the United States in maintaining a lack of “introspection” ignoring “prime catalysts” of political violence and disregarding “any responsibility for their own actions and behaviors.”⁹¹ In sum, Siniver rejects the theory of new terrorism, and contends that consensus counterterrorism strategy, originating with the myopic perspectives of the U.S.-led war on terror, is neither effectual nor genuine and is hindered by the inaccuracies of how threats of political violence are “conceptualized” by individual governments.⁹²

The Siniver anthology identifies the source of the international reframing of political violence into the concept of new transnational terrorism. David Hastings Dunn and Oz Hassan explain that after 9/11, the United States developed an international model of “counter-terrorism, pre-emption, ... and a ‘Freedom Agenda’” that has been widely adopted in the international community.⁹³ Dunn and Hassan emphasize that this doctrine is largely contradictory and unsustainable, yet its adoption was predictable based on how the Bush administration framed the security environment after 9/11.⁹⁴

Dunn and Hassan demonstrate the contradictions and flaws inherent in each component of the security model. They highlight the futility of identifying political violence as transnational terrorism, the unsustainability of pre-empting the “possible ... [rather] than the probable,”⁹⁵ the instability of regime change, and the “double standards in the freedom agenda” arising from strategic international partnerships with non-liberal yet stable regimes.⁹⁶ Dunn and Hassan’s chapter strikes at the heart of the anthology,

⁹⁰ Siniver, “Introduction,” 2.

⁹¹ Ibid.

⁹² Ibid.

⁹³ Ibid., 4.

⁹⁴ David H. Dunn and Oz Hassan, “Strategic Confusion: America’s Conflicting Strategies and the War on Terrorism,” in *International Terrorism Post-9/11: Comparative Dynamics and Responses*, ed. Asaf Siniver (London: Routledge, 2010), 58–59.

⁹⁵ Ibid., 64.

⁹⁶ Ibid., 72.

highlighting the foundational role the United States played in rallying the global community against an “evil” yet nebulous enemy.⁹⁷

Steve Hewitt’s chapter builds on the myopic yet contagious U.S. approach to counter-terrorism playing out on the international stage.⁹⁸ The United States framed the attacks of 9/11 as purely external; thus, it was able to focus securitization and intelligence efforts overseas. Hewitt highlights the Rewards for Justice Program (RFJP), a program designed to provide financial rewards to those who provide the government information about wanted terrorists, and how the program exemplifies the “flawed conceptualization” of the war on terror.⁹⁹ Hewitt portrays the history of the RFJP emphasizing some successes, but overall demonstrates how the program’s origins in traditional law enforcement tactics and its evolution reflect international shortsightedness and financial arrogance of the United States.¹⁰⁰

Political power is gained by controlling the narrative of violence. This control is particularly useful to governments when framing social, ethno-national, or irredentist movements in service to their own peculiar agendas. Whether used to justify the toppling of rogue states through democratic imperialism, the suppressing of irredentist movements, or the sculpting and clarifying of a national identity, the post-9/11 security environment was framed and conceptualized to fit disparate agendas. A routinely discussed anti-trafficking enforcement gap under the TVPA is the national security exemption in tier rankings; many countries may be “given wide latitude” to standards of human trafficking, and most likely to smuggling, which could pose security threats.¹⁰¹

⁹⁷ Dunn and Hassan, “Strategic Confusion,” 59.

⁹⁸ Steve Hewitt, “American Counter-Terrorism through the Rewards for Justice Program, 1984–2008,” in *International Terrorism Post-9/11: Comparative Dynamics and Responses*, ed. Asaf Siniver (London: Routledge, 2010).

⁹⁹ *Ibid.*, 83.

¹⁰⁰ *Ibid.*, 90.

¹⁰¹ Obuah, “Combating Global Trafficking,” 261.

D. ESTABLISHMENT OF THE HUMAN SMUGGLING AND TRAFFICKING CENTER

The National Commission on Terrorist Attacks upon the United States, otherwise known as the 9/11 Commission, “recommended that the United States combine terrorist travel intelligence, operations, and law enforcement in a strategy to intercept terrorists, find terrorist facilitators, and constrain terrorist mobility.”¹⁰² In an attempt to be in accordance with these missions, Section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA) codified the establishment of the Human Smuggling and Trafficking Center (HSTC), and the DOD, DHS, and DOJ “signed a charter in July 2004” commencing operations.¹⁰³

In the post-9/11 environment, emphasis is clearly on interdicting terrorist movement, a mission distinct from interdicting human trafficking and even human smuggling. The IRTPA ineffectually approached anti-human trafficking efforts, forcing an unsubstantiated connection to threats of terrorism. This friction is apparent in some of the HSTC’s early reports, which fail to define operational connections appropriately and form remedies between the dual mandates of concurrently interdicting terrorism and human trafficking. The HSTC tries to establish and legitimize its mission by contending, “human smuggling, trafficking in persons, and clandestine terrorist travel are transnational issues that threaten national security.”¹⁰⁴ Generalities represented by the previous statement demonstrate the HSTC’s conceptual and operational struggle.

The HSTC “is [not] a valuable new tool in the U.S. Government’s efforts to address terrorist travel, human smuggling, and [especially] human trafficking,” as contended by HSTC.¹⁰⁵ The premise, “central to the United States’ approach to target clandestine terrorist travel is the Human Smuggling and Trafficking Center” is a

¹⁰² Human Smuggling and Trafficking Center, *Establishment of the Human Smuggling and Trafficking Center: A Report to Congress* (Washington, DC: Human Smuggling and Trafficking Center, 2005), 1, <http://www.state.gov/documents/organization/49600.pdf>.

¹⁰³ *Ibid.*, iii.

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*

distraction for both terrorist travel interdiction efforts and anti-human trafficking efforts.¹⁰⁶ The HSTC claims that it “serves as an intelligence fusion center and information clearinghouse ... to foster greater cooperation and communication,”¹⁰⁷ but in actuality, the “most comprehensive” information-sharing center has become the most convoluted.¹⁰⁸

The HSTC claims, “human smuggling, trafficking in persons, and clandestine terrorist travel are transnational issues,” but a better understanding is that only human smuggling is exclusively a transnational issue.¹⁰⁹ The HSTC also claims, “criminal smuggling networks that facilitate terrorist travel are as much of a terrorism enabler as is a money launderer.”¹¹⁰ This statement assumes that terrorists are actually using criminal smuggling or trafficking networks to gain access to the United States. Reflecting on Al Qaeda and Islamic State inspired action against the United States, human trafficking has nothing to do with terrorist activities and attack planning. A lack of evidence induces skepticism of the “urgent” need to interdict terrorist plots through combating human trafficking and vice versa.¹¹¹ Few operational linkages are evident between terrorism and human trafficking, and the concerted international and interagency efforts “against these inter-related problems” are not effective.¹¹²

Documents and publications produced by the HSTC demonstrate noticeable dissonance. Guided by a mandate of anti-terrorism through the IRTPA, the HSTC tries desperately to connect human trafficking to terrorist travel. The HSTC claims that human smuggling, human trafficking, and terrorist travel are “inextricably intertwined,” yet

¹⁰⁶ Human Smuggling and Trafficking Center, *Establishment of the Human Smuggling and Trafficking Center*, 1.

¹⁰⁷ *Ibid.*, iii.

¹⁰⁸ *Ibid.*, 2.

¹⁰⁹ *Ibid.*, iii.

¹¹⁰ *Ibid.*, 1.

¹¹¹ *Ibid.*

¹¹² *Ibid.*, iii.

conflict is evident.¹¹³ Within their own reports and documentation, the HSTC is forced to admit that it is only able to address the conflated missions in its charter as separate and individual “serious concerns for the United States.”¹¹⁴ Rectifying obvious contradictions and spurious connections, the HSTC is obligated to acknowledge that terrorist travel and human trafficking are “separate, but related.”¹¹⁵ Those tasked with executing HSTC responsibilities understand that terrorism and human trafficking are separate issues and are tenuously linked; only conceptual and imaginative gymnastics can “relate” the two in any operationally significant way.

One of the few operational connections between countering terrorism, human trafficking, and human smuggling is a “focus on travel and identity document fraud,” but it is only one small aspect of widely diverse objectives.¹¹⁶ The charter of the HSTC assumed that significant connections to terrorism would be found in trafficking, yet the HSTC admits that it is only “assisting in the dismantling of significant human smuggling organizations, some with [only] probable or suspected terrorist links.”¹¹⁷ This statement begs the question: What is the mission of the HSTC?

HSTC operations are guided by the term “clandestine terrorist travel,” but does the use of that term imply the existence of overt terrorist travel?¹¹⁸ Their term erroneously implies that when terrorists travel “clandestine[ly],” they utilize human traffickers.¹¹⁹ Raising the question, How would the HSTC classify the travel and movement of actual terrorists who have attacked the United States? The charter guides

¹¹³ Human Smuggling and Trafficking Center, *Establishment of the Human Smuggling and Trafficking Center*, 11.

¹¹⁴ Ibid.

¹¹⁵ Ibid., 3.

¹¹⁶ Ibid.

¹¹⁷ Ibid., 4.

¹¹⁸ Ibid., 9.

¹¹⁹ Ibid.

the HSTC only to interdict the “probable” and possibly imaginary methods of terrorist travel.¹²⁰

The search for the nexus of “criminal support of terrorist mobility” to human trafficking is difficult and still undetermined.¹²¹ Combating “the international criminal travel industry” is unconvincingly connected to stopping terrorist attacks or the struggles of trafficked persons.¹²² With divergent efforts, the HSTC does a disservice to national anti-terrorism goals and to victims of human trafficking. Anti-human trafficking efforts approached through a lens of anti-terrorism do not have proper consideration for elements of agency, labor, the sex industry, or crime control.

The charter of the HSTC eventually admits that human smuggling, human trafficking, and clandestine terrorist travel “at their core are distinct phenomena,” yet still tries to rationalize a one size fits all approach to all three emphasizing that all involve rule of law violations and some degree of human suffering.¹²³ Even though human smuggling, human trafficking, and “clandestine terrorist travel” are supported by criminal elements and tactics, “raise significant human rights and rule of law concerns, ... [and] often involve facilitation by corrupt foreign officials,” does not mean they can all be, or should be, addressed in the same way.¹²⁴ Although human smuggling and trafficking have many similar aspects, human trafficking and terrorist attacks have noticeably few if any. The organizations, tools, and focuses must be unique for all three. A “concern ... that terrorist organizations have tapped or will tap into” human trafficking networks is not backed up by evidence and is conceptually dilutive.¹²⁵

¹²⁰ Human Smuggling and Trafficking Center, *Establishment of the Human Smuggling and Trafficking Center*, 4.

¹²¹ *Ibid.*, 11.

¹²² *Ibid.*

¹²³ Human Smuggling and Trafficking Center, *Establishment of the Human Smuggling and Trafficking Center: A Report to Congress, Attachment B* (Washington, DC: Human Smuggling and Trafficking Center, 2005), III, <http://www.state.gov/documents/organization/49600.pdf>.

¹²⁴ *Ibid.*, IV.

¹²⁵ *Ibid.*, III.

The HSTC approaches human trafficking conceptually as transnational activity stating, “Trafficking in persons and human smuggling are some of the fastest growing areas of international criminal activity.”¹²⁶ Continuing a pattern of contradictions, the HSTC provides a standard human trafficking definition distinctly different from definitions of transnational organized crime, and especially, terrorism. The HSTC correctly defines human trafficking as “exploitation of people through force, coercion, threat, or deception and includes human rights abuses, such as debt bondage, deprivation of liberty, or lack of control over freedom and labor.”¹²⁷ The HSTC fact sheet correctly emphasizes that the “underlying issues that give rise to these illegal activities” of human smuggling and trafficking are “extreme poverty, lack of economic opportunities, civil unrest, and political uncertainty;” unsurprisingly, the HSTC does not mention terrorist travel patterns as an underlying issue, further demonstrating a lack of correlation.¹²⁸

The HSTC was established under the TVPRA to assess and halt terrorist travel to the United States. The HSTC focused on human trafficking and smuggling. The center’s own fact sheet highlights dissonance and the turbid nature of its original charter; the fact sheet has no mention of terrorism or terrorist travel anywhere.¹²⁹ Other HSTC publications, which focus on analyzing and defining human trafficking and smuggling, do not mention terrorism or terrorist travel.¹³⁰ After practical application, the problems inherent in conflating terrorist travel with human trafficking manifested. Seemingly giving up on its original mandate from the IRPTA, the HSTC’s references to terrorism investigations and analysis on terrorist travel methods has been replaced with discussions

¹²⁶ Human Smuggling and Trafficking Center, *Fact Sheet: Distinctions between Human Smuggling and Human Trafficking* (Washington, DC: Human Smuggling and Trafficking Center, 2005), 1, <http://www.rescueandrestoreky.org/wp-content/uploads/2010/03/Fact-Sheet-Distinctions-between-Human-Trafficking-and-Smuggling.pdf>.

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Human Smuggling and Trafficking Center, *Domestic Human Trafficking -An Internal Issue -* (Washington, DC: Human Smuggling and Trafficking Center, 2008), <http://www.state.gov/documents/organization/113612.pdf>.

of victims' rights, coordination with various NGOs and the HHS, and the federal prosecution of individual traffickers.¹³¹

E. SYSTEMS ANALYSIS OF LEVERAGE POINTS

Human trafficking can be approached through a systems analysis framework, provided by Donella Meadows, where identified “leverage points” can be manipulated and can create disproportional and sometimes cascading effects on complex interdependent systems.¹³² The theory behind “leverage points” is reflected repeatedly through human history. Examples include searches for the immortalizing power of the Fountain of Youth or the use of a metaphorical “silver bullet” against enemies.¹³³ These “leverage points are points of power” in a complex system.¹³⁴ Highlighting the exponential complexities of interdependent systems, Meadows references MIT professor Jay Forrester, who emphasized that “leverage points” are usually easy to find, but are counter-intuitive.¹³⁵ In general, well intending managers find these “points of power,” but then “try[] very hard to push [them] in the wrong direction.”¹³⁶

The charter of the HSTC is an example of “backward intuition.”¹³⁷ The perceived “leverage point” of human trafficking was thought to have had a disproportionately significant effect on combating terrorism.¹³⁸ The goal of an anti-human trafficking agenda is to find appropriate methods of intercession required to create effective changes. The four “leverage points”¹³⁹ of system change in human trafficking are agency, labor, the sex industry, and crime control. Meadows developed 12 “places to intervene in a

¹³¹ Human Smuggling and Trafficking Center, *Domestic Human Trafficking*, 6–12.

¹³² Donella H. Meadows, *Leverage Points: Places to Intervene in a System* (Hartland, VT, The Sustainability Institute, 1999), 1, http://donellameadows.org/wp-content/userfiles/Leverage_Points.pdf.

¹³³ *Ibid.*

¹³⁴ *Ibid.*

¹³⁵ *Ibid.*

¹³⁶ *Ibid.*

¹³⁷ *Ibid.*

¹³⁸ *Ibid.*

¹³⁹ *Ibid.*

system,” which underscore specific ways to approach the manipulation of “leverage points” that actually produce positive, but most importantly, predictable results.¹⁴⁰ Meadows demonstrates the potential complexity of systems and underscores the difficulty of knowing how the systems relate to both inputs and outputs.¹⁴¹ She emphasizes that operational reality is usually quite different from people’s perception of how a system works, and she highlights the difficulty in choosing the kinds of system changes that are desirable or possible.¹⁴²

Meadows’ least influential “leverage points” are based on physical and structural constraints, specifically, system “parameters,” which although are easy to identify, their alteration “rarely change[s] behavior” of a system.¹⁴³ “Buffers,” the core of relative system stability, are the most cumbersome and sometimes physically unmalleable aspects of system intervention.¹⁴⁴ The third least influential “leverage point” is the “structure” of the system, which inherent in design or “physical arrangement,” dictates much of system operation.¹⁴⁵ The forth least influential area for intervention is in efforts to change “delays” in systems, as “delays are not often easily changeable. Things take as long as they take.”¹⁴⁶ “Delayed information ... will [cause] overshoot and undershoot” of system objectives, as the “system just can’t respond to short-term changes when it has long-term delays.”¹⁴⁷

The “information and control” areas of system intervention have significant “leverage.”¹⁴⁸ The structures that support incentives for “self-correcting feedback” are

¹⁴⁰ Meadows, *Leverage Points*, 3.

¹⁴¹ *Ibid.*, 4.

¹⁴² *Ibid.*, 4–5.

¹⁴³ *Ibid.*, 6.

¹⁴⁴ *Ibid.*

¹⁴⁵ *Ibid.*, 7.

¹⁴⁶ *Ibid.*, 9.

¹⁴⁷ *Ibid.*, 8.

¹⁴⁸ *Ibid.*, 9.

critical components of healthy systems and have significant effects.¹⁴⁹ Adjacent to “self-correcting” feedback, “positive feedback loop[s are] self-reinforcing.”¹⁵⁰ These “positive feedback loops are sources of growth,” as well as sources of “collapse” if not dampened by parallel “negative loop[s]” in the system.¹⁵¹ System overextension is inherent in “positive feedback” systems and is defined as a “success to the successful [situation] ... where the more you have of something, the more you have the possibility of having more.”¹⁵² Together, these auto-correcting and auto-driving functions are powerful “leverage points.”¹⁵³ Information is another highly effective lever and a powerful source of feedback in systems.¹⁵⁴ Although “humans have a systematic tendency to avoid accountability for our own decisions,” the rare occasion when self-deception and established powers allow new information to be disseminated, significant system intervention occurs.¹⁵⁵ Slightly more influential than information dissemination is the manipulation of a system’s rules or guidelines.¹⁵⁶ The rules can be strong or weak, on the spectrum of laws to social norms, but the rules dictate which feedback loops will have the most influence.¹⁵⁷

The most significant areas of system intervention involve system change. This change manifests itself in evolution and “self-organization.”¹⁵⁸ The intervention that would have the greatest destructive long-term effects would be to create rigidity and stagnation, thereby hindering a system’s ability to adapt to new challenges.¹⁵⁹ The initial development of any system is based on an original goal or objective. Harnessing the

¹⁴⁹ Meadows, *Leverage Points*, 10.

¹⁵⁰ *Ibid.*, 11.

¹⁵¹ *Ibid.*

¹⁵² *Ibid.*, 12.

¹⁵³ *Ibid.*, 11.

¹⁵⁴ *Ibid.*, 12–13.

¹⁵⁵ *Ibid.*, 13.

¹⁵⁶ *Ibid.*, 13–14.

¹⁵⁷ *Ibid.*, 14.

¹⁵⁸ *Ibid.*, 15.

¹⁵⁹ *Ibid.*, 16.

power of the “leverage point” of goal setting sets the stage for all system behavior.¹⁶⁰ The final and most powerful point of system intervention is the power over and control of the paradigm in which the system operates. Meadows informs that no matter how systems are supposed to work, and whatever the constraints and rules, the way the environment expects or intends the system to work will dictate its operation and survivability.¹⁶¹ Changing the thinking about the relation of the system to its environment—a paradigm shift—can have the most drastic and radical change to any system; “people who have managed to intervene in systems at the level of paradigm have hit a leverage point that totally transforms systems.”¹⁶²

F. EXPLANATIONS AND HYPOTHESES

The thesis hypothesizes that in the post-9/11 environment, a focus on securitization efforts are emphasized disproportionately and ineffectively, and a focus on labor rights and economic incentives are disproportionately marginalized. Governmental focus on anti-terror and crime control efforts have redirected policy toward securitization solutions instead of a direct approach to the national and human security issue that is human trafficking. The illumination of previously undisturbed conditions of human trafficking that were only uncovered thanks to efforts and funding that became available in the new securitization of a post-9/11 environment are negligible.

G. METHOD, DESIGN, AND SOURCES

The analytical approach of the thesis uses the framework of the human trafficking discourse and U.S. policy guidance. Using these structures, the thesis demonstrates how a specific set of relevant government responses since 9/11 fit within the human trafficking discourse. The thesis uses the DOS, DOJ, DHS, HHS, and DOL as U.S. government response case studies based on their relative experience, expertise, and operational

¹⁶⁰ Meadows, *Leverage Points*, 16.

¹⁶¹ *Ibid.*, 17–18.

¹⁶² *Ibid.*, 18.

mandates. The thesis gleaned information from appropriate documents, articles, and reports from both U.S. government and non-government sources.

The thesis qualitatively examined each of the selected departments and determined the extent of progress on anti-human trafficking efforts based on human agency and security, labor considerations, state security, and crime control in the context of definitional clarity and constructed narratives that dominate the human trafficking discourse with specific emphasis on policies and efforts in the post-9/11 environment. The discourse provides the framework that allows the reader to see if the assumed securitization and crime control focus of these departments have been appropriate and successful in meeting anti-trafficking objectives. The goal of the thesis is to frame the global effort of contemporary counter-terrorism and counter-trafficking into terms that are more realistic. External threats must be vigorously mitigated, and internal human trafficking threats must be dealt with as well, but with an eye on inclusive responsibility to address the needs of those who are marginalized, disenfranchised, or subjugated.

II. LITERATURE REVIEW

Much of the discourse on human trafficking begins with institutionalized slavery, the ultimate human commoditization, of the 19th century, as a baseline for moral indignation, or at least as a reference. Austin Choi-Fitzpatrick explains that in an “historical perspective, slavery is one of humanity’s most durable institutions” primarily driven by economic incentives.¹⁶³ The analogous nature of institutionalized slavery to modern human trafficking, although provocative, is only one small aspect of a much broader, difficult, and sinister institution of the modern world.

The fall of the Soviet Union, and concomitant acceleration of globalization, have ignited a global discourse on the implications of the commoditization of human beings. The discussion is generally grounded in the understanding of the human condition, where incentives and reinforcement guide behavior that can only be controlled and redirected toward civility by the rationality of the state. Political, religious, feminist, social justice, and security interests all view the nature of human trafficking, as well as the problems of and solutions to human trafficking in unique ways; all uniting under the basic fundamentals of human dignity and security.

The combating of human trafficking is in many ways overshadowed by discourse involving competition between different approaches, conceptualizations, and schools of thought regarding the various pertinent issues. The literature on human trafficking highlights the perfect convergence of issues, such as human rights, labor rights, human migration, moral imperatives, state security, human security, economics, crime control, feminism, and the media. The literature also highlights definitional and empirical discrepancies of the human trafficking dialogue. The following sections are a thematic review of the human trafficking literature that delves into the various conceptualizations and conflicts within and around the modern commoditization of people. The search for an “emancipation is more than abolition; it is a transformation in consciousness, social

¹⁶³ Choi-Fitzpatrick, “Rethinking Trafficking: Contemporary Slavery,” 17.

structure, and political empowerment,” are analyzed under the conceptualizations of human agency, labor rights, the sex industry, and crime control efforts.¹⁶⁴

A. AGENCY

Through a perspective of social work, Crystal DeBoise highlights the responsibility of anti-trafficking advocates to recognize and support the self-determination and agency of all vulnerable populations and to resist urges to rescue those in complex trafficking situations.¹⁶⁵ Complex situations fall on various points of a layered spectrum, where in general, both reality and agency take a backseat to sensationalism and “tropes of rescue.”¹⁶⁶ The abuse narrative can become commoditized and distracting.¹⁶⁷ An overlooked aspect of human trafficking discourse involves the actual experiences of and “self-identification” of people who would not classify themselves as “passive victims manipulated by others,” but who make many choices based on available options.¹⁶⁸

Tiantian Zheng acknowledges that sensational narratives constructing a “gendered-stereotype” obscure the relevancy of the agency of the people who are trafficked, which creates an environment that “eliminates moral ambiguity and ... justifies state intervention.”¹⁶⁹ Zheng asserts that much of the current trafficking discourse denies the “migration of women and children as a survival strategy,” which purges critical analysis and recognition of agency.¹⁷⁰ Agency is stripped from traffickers, as well when sensationalized accounts and unfathomable abuses are the characterizing features of the anti-trafficking dialogue. David Feingold admonishes, “There is no

¹⁶⁴ Choi-Fitzpatrick, “Rethinking Trafficking: Contemporary Slavery,” 20.

¹⁶⁵ Crystal DeBoise, “Human Trafficking and Sex Work: Foundational Social-Work Principles,” *Meridians* 12, no. 1 (2014): 230.

¹⁶⁶ Hua, “Telling Stories of Trafficking: The Politics of Legibility,” 202.

¹⁶⁷ *Ibid.*, 202–3.

¹⁶⁸ Tiantian Zheng, “Introduction,” in *Sex Trafficking, Human Rights and Social Justice*, ed. Tiantian Zheng (London: Routledge, 2010), 2–3.

¹⁶⁹ *Ibid.*, 6.

¹⁷⁰ *Ibid.*, 8.

standard profile of traffickers.”¹⁷¹ Simplistic narratives that support the “myth of the sinister, malevolent trafficker” are misleading.¹⁷² Zheng notes that migrants rationally seek out traffickers to enter illicit and dangerous industries with a desire not to be rescued, but to make a living and not be deported from their new environment.¹⁷³

Jennifer Musto highlights the concerted efforts applied by anti-trafficking organizations, which ignore the agency and experience of trafficked individuals and promote the construction of the “innocent” and “naïve” victim tricked into a life of commoditization.¹⁷⁴ Susan Dewey emphasizes how policymakers have purposely ignored the agency of trafficking victims who willingly enter into trafficking “as part of broader strategies to improve their lives.”¹⁷⁵ A blind spot is created when ineffective policies ignore the agency of trafficked people who “opt to migrate on someone else’s terms.”¹⁷⁶ Yasmina Katsulis, Kate Weinkauff, and Elena Frank provide the strongest arguments against a human trafficking paradigm of repression and victimization. They push for an “accurate representations of sex worker realities” to redirect the current rescue discourse.¹⁷⁷ Focusing on the traditionally accepted stereotype of the trafficked victim, the migrant sex worker, Katsulis et al. reject a “one-size-fits-all solution” and propose to define commonly understood prostituted victims of human trafficking strictly as “migrant sex workers.”¹⁷⁸

¹⁷¹ Feingold, “Human Trafficking,” 28.

¹⁷² Zheng, “Introduction,” 8.

¹⁷³ Ibid., 9.

¹⁷⁴ Jennifer L. Musto, “The NGO-ification of the Anti-trafficking Movement in the United States: A Case Study of the Coalition to Abolish Slavery and Trafficking,” in *Sex Trafficking, Human Rights and Social Justice*, ed. Tiantian Zheng (London: Routledge, 2010), 23–24.

¹⁷⁵ Susan Dewey, “Invisible Agents, Hollow Bodies: Neoliberal Notions of “Sex Trafficking” from Syracuse to Sarajevo,” in *Sex Trafficking, Human Rights and Social Justice*, ed. Tiantian Zheng (London: Routledge, 2010), 112.

¹⁷⁶ Ibid., 112–13.

¹⁷⁷ Yasmina Katsulis, Kate Weinkauff, and Elena Frank, “Countering the Trafficking Paradigm: The Role of Family Obligations, Remittance, and Investment Strategies among Migrant Sex Workers in Tijuana, Mexico,” in *Sex Trafficking, Human Rights and Social Justice*, ed. Tiantian Zheng (London: Routledge, 2010), 170.

¹⁷⁸ Ibid., 171.

Underscoring agency, Katsulis et al. highlight that “sex work implies that workers are not sellers of their bodies but rather their time and skills.”¹⁷⁹ The goals of Katsulis et al. are to paint a clear picture of the sex industry that best reflects reality bowing to the inherent agency of those involved “that validates the choices made by the sex workers within particular sets of circumstances and contexts.”¹⁸⁰ Contrary to an oppression centric model of trafficking that is “empirically inaccurate and misleading, doing more to obfuscate than enlighten,”¹⁸¹ “the work experiences of individuals vary tremendously;”¹⁸² in many non-trafficking situations, an accepted level of danger is to be expected.¹⁸³ Many presumably trafficked women may “choose to work in ‘less free situations,’ such as a brothel ... to consolidate costs while abroad;” other agency centric choices that make the “migrant sex worker lifestyle” attractive may include intangibles, such as perceptions of independence or glamor.¹⁸⁴ The lifestyles of migrant workers trafficked in the sex industry are varied and “do not fall into neat categories.”¹⁸⁵

Janie Chuang contends that constructed imagery of oppressed victims of trafficking “elides the reality that the vast majority of trafficked persons’ narratives begin with an act with agency.”¹⁸⁶ Jennifer Lobasz counters the popular notion that “women who believe they are voluntarily engaged in prostitution have fallen prey to false consciousness as a survival strategy.”¹⁸⁷ Social constructions of limited awareness support “gender stereotypes” and ignore agency.¹⁸⁸ The “trope” of the innocent victim of

¹⁷⁹ Katsulis, Weinkauff, and Frank, “Countering the Trafficking Paradigm,” 174.

¹⁸⁰ Ibid., 173.

¹⁸¹ Ibid., 172.

¹⁸² Ibid., 173.

¹⁸³ Ibid., 174.

¹⁸⁴ Ibid., 183.

¹⁸⁵ Ibid., 186.

¹⁸⁶ Janie A. Chuang, “Exploitation Creep and the Unmaking of Human Trafficking Law,” *The American Journal of International Law* 108, no. 4 (October 2014): 636.

¹⁸⁷ Jennifer K. Lobasz, “Beyond Border Security: Feminist Approaches to Human Trafficking,” *Security Studies* 18, no. 2 (2009): 335, doi:10.1080/09636410902900020.

¹⁸⁸ Ibid., 339.

international trafficking is routinely cooked up by activist organizations and is digested easily by politicians who relish the clarity of a “sympathetic victim.”¹⁸⁹ Sex trafficking understood as exploitation rejects agency and “frame[s] men as actors and women as victims.”¹⁹⁰

The victim narrative that characterizes women as “duped” or “seduced” is counterproductive, as it discounts agency.¹⁹¹ Agency guides all workers in a globalized system; financial stability and intangible incentives play a much greater role than that of predatory traffickers.¹⁹² Ronald Weitzer underscores the inefficiencies of trafficking “mythology” known as the “oppression paradigm.”¹⁹³ This paradigm erroneously stresses the institutional oppression inherent in the sex trafficking industry “regardless of the conditions under which it occurs,” and without any sensitivity to the normal distribution of “agency and subordination.”¹⁹⁴ Supporters of the “oppression paradigm” sensationalize and generalize “fundamental harms” of the sex industry, excluding agency of victims and “demonizing customers as violent misogynists,”¹⁹⁵ with “empirical evidence” being casually absent.¹⁹⁶ Those who support the “oppression paradigm” have constructed trafficking to fit an agenda of simplification where varied structural incentives and agency are discounted and clear lines between predator and innocent victim are drawn; even though “many of those who are trafficked are not held in slave-like conditions,” as the vast majority of oppression writers direct the discourse on human trafficking.¹⁹⁷ Popular culture’s depictions of elements of sex trafficking, such as the film

¹⁸⁹ Lobasz, “Beyond Border Security,” 340.

¹⁹⁰ *Ibid.*, 339.

¹⁹¹ *Ibid.*

¹⁹² *Ibid.*

¹⁹³ Ronald Weitzer, “Sex Trafficking and the Sex Industry: The Need for Evidence-Based Theory and Legislation,” *The Journal of Criminal Law and Criminology* 101, no. 4 (2012): 1337–38.

¹⁹⁴ *Ibid.*, 1338.

¹⁹⁵ *Ibid.*, 1341.

¹⁹⁶ *Ibid.*, 1342.

¹⁹⁷ *Ibid.*, 1344.

Taken,¹⁹⁸ “marginalize alternative viewpoints and critiques of government policy, while legitimizing the view of anti-prostitution activists.”¹⁹⁹

B. LABOR

The desire to reduce the costs of production in a globally competitive market is usually manifested by reducing labor costs. Yvonne Zimmerman underscores that human trafficking is manifested through the commoditization of labor, and she emphasizes that “normatively constructing human trafficking as ‘female sexual slavery’ overdetermines [its] nature.”²⁰⁰ Human trafficking is “a violation of human rights” where “force, fraud, or coercion” creates a commoditization of people, and it is counterproductive to focus on “notions of sexual propriety” as intrinsic to human trafficking discourse.²⁰¹ Labor exploitation issues frequently become marginalized; the “impression that human trafficking is concentrated primarily in the sex industry is problematic, for the world-wide market for cheap labor is exponentially larger than the market for commercial sex.”²⁰² Sheldon Zhang highlights that globalization has increased the reach of “unscrupulous employers bent on extracting profits from ... abundant and cheap human labor.”²⁰³

Zhang reveals that labor is most vulnerable to exploitation in the “domestic service, agriculture, sweatshop/factory, and restaurant and hotel work.”²⁰⁴ Although expansive, exploitation through forced labor has not received its fair share of study or conversation.²⁰⁵ The exploitation and commoditization of people through forced labor,

¹⁹⁸ *Taken*, directed by Pierre Morel (Los Angeles, CA: 20th Century Fox Home Entertainment, 2009).

¹⁹⁹ Weitzer, “Sex Trafficking and the Sex Industry,” 1366.

²⁰⁰ Zimmerman, “From Bush to Obama,” 83.

²⁰¹ *Ibid.*, 99.

²⁰² *Ibid.*, 83.

²⁰³ Sheldon X. Zhang, “Measuring Labor Trafficking: A Research Note,” *Crime, Law and Social Change* 58, no. 4 (2012): 469, doi:10.1007/s10611-012-9393-y.

²⁰⁴ *Ibid.*, 470.

²⁰⁵ *Ibid.*

by sheer numbers, surpasses trafficking for strictly sexual exploitation.²⁰⁶ Zhang offers a global perspective and objective analysis of forced labor highlighting definitional disparities of un-free labor and degrees of exploitation.²⁰⁷ Zhang is able to land on a very precise trafficking definition, “Anytime labor is extracted involuntarily and under threat of penalty, it is trafficking.”²⁰⁸ Zhang provides an exacting definition, but not all exploitation is the same; “sexual slaves and migrant laborers may both be forced labor ... [but] they may have very different policy interests and demand different political solutions.”²⁰⁹

James Pope is a proponent of the preventive and proactive use of free labor initiatives that can mechanically drive forced labor out of an economy.²¹⁰ Citing *Pollock v. Williams* 1944, Pope demonstrates how the Thirteenth Amendment is interpreted to provide “a system of completely free and voluntary labor throughout the United States” where under no circumstances can labor be forcefully extracted from an individual’s economic or social debt.²¹¹ Free labor is the antithesis to forced labor.²¹² Exploitation can be eliminated if laborers have the inherent right to cease working or change employers; this power imbued in the laborer represents “the free labor system as a nemesis to slavery.”²¹³ Positive and proactive free labor initiatives include ensuring that all workers receive “rights to organize and engage in concerted activities” to avoid forced conditions continually.²¹⁴ Pope underscores that it is not the difficulty of labor or the exploitation of

²⁰⁶ Zhang, “Measuring Labor Trafficking,” 470.

²⁰⁷ *Ibid.*, 472–73.

²⁰⁸ *Ibid.*, 474.

²⁰⁹ Wong, “Is Trafficking Slavery?” 317.

²¹⁰ James G. Pope, “A Free Labor Approach to Human Trafficking,” *University of Pennsylvania Law Review* 158, no. 6 (May 2010): 1849–50, doi:205.155.65.56.

²¹¹ *Ibid.*, 1850.

²¹² *Ibid.*

²¹³ *Ibid.*, 1851.

²¹⁴ *Ibid.*, 1852.

the labor force, but the coercive nature of a threatening relationship that is “morally blameworthy.”²¹⁵

A clear distinction between slave like working conditions and less visible exploitations “carves out a marginal form of labor exploitation that is not vital to the power or prosperity of any important economic or political elite,” and therefore, common discourse is predominated by worst-case scenarios of forced labor, which *must* be remedied.²¹⁶ Pope highlights that in reality, “slave and nonslave laborers toil in close proximity.”²¹⁷ Free labor analysis holds that by “singling out extreme exploitation, anti-trafficking regimes were ‘normaliz[ing] the harsh realities of exploitation experienced by many migrant and nonmigrant workers.’”²¹⁸

Kevin Bales and Ron Soodalter explain how the U.S. visa system limits choice and restricts free labor rights of foreign domestic servants on A-3, G-5, and B-1 visas, who are retained in servitude under linkages of “control and dependence.”²¹⁹ Bales and Soodalter find a free labor system already in use that provides foreign domestic servants whom maintain and exercise agency through the regulated and labor rights centric J-1 visa program.²²⁰ Although, others like Janie Chuang, Ana Avendano, and Charlie Fanning recognize compulsion, exploitation, and debt bondage in the J-1 visa program as well.²²¹ By consolidating under one domestic worker visa program, many exploitive loopholes will be closed, including those involving complications of diplomatic immunity.²²²

²¹⁵ Pope, “A Free Labor Approach,” 1854.

²¹⁶ Ibid.

²¹⁷ Ibid., 1855.

²¹⁸ Chuang, “Exploitation Creep,” 622.

²¹⁹ Bales and Soodalter, *The Slave Next Door*, 33.

²²⁰ Ibid., 36.

²²¹ Chuang, “Exploitation Creep,” 646; Ana Avendaño and Charlie Fanning, “Immigration Policy Reform in the United States: Reframing the Enforcement Discourse to Fight Human Trafficking and Promote Shared Prosperity,” *Anti-Trafficking Review* 2 (2013): 109, doi:10.14197/atr.20121326.

²²² Bales and Soodalter, *The Slave Next Door*, 39.

Pope's proposal of free labor is built with individuals with agency who have employment options.²²³ Pope cites Bales, as he concedes that the structural limitations may be increasingly difficult to overcome with respect to the development of workers' agency, as "we must convince the world that human rights need even more protection than property rights."²²⁴ Pope highlights that when organization and action are efficiently directed toward the improvement of working conditions, forced labor is no longer sustained.²²⁵

The concept of free labor is juxtaposed to the current regime of supposedly free trade. Pope acknowledges that unimpeded capital and products have global reach, while individual laborers are mired behind national borders.²²⁶ The restrictive nature of a less than free labor system inspires growth of "an undocumented workforce of vast proportions" where the majority lacks many of the most important free labor rights.²²⁷ The lack of employment opportunity in labor rich countries creates trafficking vulnerabilities for the unemployed, and countries with large undocumented and unprotected workforces create "a largely silent buffer zone around slavery."²²⁸ These vulnerabilities are exacerbated by confusion and conflation of the terms "trafficking in persons" and "smuggling of migrants."²²⁹

The globalizing system is becomingly increasingly defined as one where "borders have become more flexible for multinational capital and yet increasingly restricted for migrant labor."²³⁰ Pope cites Jennifer Gordon as a possible way to achieve truly free

²²³ Pope, "A Free Labor Approach," 1859.

²²⁴ Ibid., 1862.

²²⁵ Ibid., 1863–64.

²²⁶ Ibid., 1867.

²²⁷ Ibid.

²²⁸ Ibid., 1868.

²²⁹ David E. Guinn, "Defining the Problem of Trafficking: The Interplay of U.S. Law, Donor, and NGO Engagement and the Local Context in Latin America," *Human Rights Quarterly* 30, no. 1 (2008): 126, doi:10.1353/hrq.2008.0008.

²³⁰ Dewey, "Invisible Agents," 113.

labor, by proposing “that labor citizenship be separated from political citizenship,” which will achieve freedoms while preserving state sovereignty.²³¹

Bales and Soodalter shed light on the migrant workers who fall into the trap of trafficking. With an emphasis on U.S. agriculture, the authors describe multiple tales of labor exploitation through coercive debt bondage and threats of violence against laborers who are “socially disconnected, recently homeless, and without resources.”²³² Bales and Soodalter highlight another visa program that is structurally flawed and biased toward abuses, the “Guest Worker” H-2 visa program.²³³ Although the intent of the visa is to liberalize international labor movement, the lack of oversight followed by disregard for many of the regulations “provides a splendid opportunity for mistreatment and enslavement.”²³⁴ Besides contract violations, secondary abuses in the H-2 program include employment brokers and recruiters who charge excessive fees, as well as the concerted “blacklisting” of H-2 visa holders who try to exercise fundamental rights of free labor through organization.²³⁵

Janie Chuang’s labor approach is uniquely enlightening. Analyzing the evolution of anti-trafficking discourse, Chuang asserts that since “all labor is recast as trafficking” and “all trafficking is labeled as slavery,” the dialogue has been biased towards a counterproductive extreme where political influences are able effectively to repel or at least deflect “competing [free labor] approaches calling for labor rights and migration policy reforms.”²³⁶ The current migratory labor paradigm “provides ‘labour without people ... making it easier for employers to exploit workers, and engage in flexible hiring and firing.’”²³⁷

²³¹ Pope, “A Free Labor Approach,” 1870.

²³² Bales and Soodalter, *The Slave Next Door*, 51.

²³³ *Ibid.*, 68–69.

²³⁴ *Ibid.*, 69.

²³⁵ *Ibid.*, 70.

²³⁶ Chuang, “Exploitation Creep,” 611.

²³⁷ Avendaño and Fanning, “Immigration Policy Reform,” 111.

Chuang highlights the value a free labor discussion brings to trafficking discourse, which may manifest trafficking preventive qualities.²³⁸ Prevention begins with reducing “the risk of human trafficking,”²³⁹ yet, “the reforms sought under the rubric of ‘labor’ challenge the very structures that have fueled global economic growth and upon which prosperous societies are built.”²⁴⁰ Less dire and more implementable reforms include “the regulation of international labour recruiters; mobility protections under work visa programmes ... and enhanced tools for migrants to report abuses.”²⁴¹

Barak highlights that “unlike capital, labor remains fragmented and disorganized.”²⁴² He further contends, “workers, whether organized or not, have been in retreat, on the defensive, and predominantly absorbed in struggles against the further erosion of their position in the capital-labor schemata of a worldwide swing to *laissez-faire* capitalism.”²⁴³

C. THE SEX INDUSTRY

James Pope introduces free labor concepts into the realm of sex trafficking. Although abolitionists and proponents of the “oppression paradigm” will contend that the concept of free labor in the sex industry is oxymoronic with “dimensions of unreality,” Pope contends that free labor ideals must be central in the discussion of human trafficking.²⁴⁴ Regardless of the contentious debate over the concept of volunteer prostitution, agency and choice are values to many in the sex trade.²⁴⁵ The foundations of free labor concepts in the sex industry are organization and an opportunity “for collective deliberation” to address problems in the industry.²⁴⁶

²³⁸ Chuang, “Exploitation Creep,” 612.

²³⁹ Avendaño and Fanning, “Immigration Policy Reform,” 112.

²⁴⁰ Chuang, “Exploitation Creep,” 646.

²⁴¹ Avendaño and Fanning, “Immigration Policy Reform,” 117.

²⁴² Barak, “Crime and Crime Control,” 68.

²⁴³ *Ibid.*

²⁴⁴ Pope, “A Free Labor Approach,” 1871.

²⁴⁵ *Ibid.*, 1872.

²⁴⁶ *Ibid.*, 1874.

The discussion of the sex industry, in the shadow of oppression literature, and the assumption of the “false consciousness” of sex workers, should not disregard “self-organization” for “some greater good.”²⁴⁷ Organization pushes sex work closer to a legitimization that Zheng highlights could reduce “stigma[]” of the sex industry and support agency.²⁴⁸ A free labor approach to the sex industry would entail “peer-outreach” in support of “developing ‘best practices’” in an attempt to empower all in the sex industry to improve the health, “working conditions, and livelihood for sex workers.”²⁴⁹ Advancing labor rights is the first step to treating those in the sex industry as “legitimate workers, rather than as moral reprobates.”²⁵⁰ Street-level sex industry organizing bodies could be best prepared to report and stop the severest forms of human trafficking.²⁵¹

Jennifer Musto holds that many anti-trafficking organizations “curtail[] trafficked persons efforts to organize,”²⁵² and “inhibit a rights-based approach that respects ... agency and choice.”²⁵³ The state plays a significant role in suppressing agency and free labor in the sex industry as “migrant sex worker[s]’ criminal status” and the denial of “workers’ permits or rights” creates fertile ground for the harshest forms of exploitation.²⁵⁴ A free labor approach to the sex industry can reduce exploitation as “sex worker unions and sex workers’ rights activists” can “protest abusive conditions without rejecting the entire industry.”²⁵⁵ Basic labor rights afforded to sex industry workers is not farfetched; stigmatizing an industry and its workers undermines basic rights afforded to

²⁴⁷ Pope, “A Free Labor Approach,” 1874.

²⁴⁸ Zheng, “Introduction,” 3.

²⁴⁹ *Ibid.*, 11.

²⁵⁰ *Ibid.*

²⁵¹ *Ibid.*, 12.

²⁵² Musto, “The NGO-ification of the Anti-Trafficking Movement,” 24.

²⁵³ *Ibid.*, 25.

²⁵⁴ Katsulis, Weinkauff, and Frank, “Countering the Trafficking Paradigm,” 183.

²⁵⁵ Lobasz, “Beyond Border Security,” 338.

all workers, such as safe working conditions, just wages, and ease of industry entrance and exit.²⁵⁶

Providing “legal frameworks [that] ensure human rights protection for all workers, including sex workers” is essential.²⁵⁷ Influences of free labor in the sex industry were present in the drafting of the UN Palermo Protocol where it was made clear that sexual commerce based on free labor principles would not be criminalized.²⁵⁸ At a minimum in the United States, the legal and social structure of a free labor sex industry must “afford women providing sex services their basic human rights and equal protection under the law.”²⁵⁹

D. CRIME CONTROL

Criminal enterprises in a globalized world can dwarf many of the elements of national power charged with the enforcement of law and order. An overview of the structure of criminal enterprises is provided by Moisés Naím, who highlights that the “illegal international trade in drugs, arms, intellectual property, people, and money” has accelerated in concert with an increasingly connected and profit driven world economy.²⁶⁰ Organized criminal enterprises can outmaneuver law enforcement agencies with an agility granted by discarding geographic and nationalistic ties.²⁶¹ Law enforcement professionals must understand the futility of traditional crime control approaches and learn to “use incentives and regulations to steer markets away from bad social outcomes.”²⁶² Naím highlights the futility of law enforcement’s use of traditional

²⁵⁶ Lobasz, “Beyond Border Security,” 338.

²⁵⁷ *Ibid.*, 344.

²⁵⁸ *Ibid.*, 338.

²⁵⁹ Schauer and Wheaton, “Sex Trafficking,” 166.

²⁶⁰ Naím, “The Five Wars of Globalization,” 29.

²⁶¹ *Ibid.*, 29–30.

²⁶² *Ibid.*, 30.

decapitation operations by noting that the arrest of top cartel leaders has “done little to stop the flow of drugs to the United States.”²⁶³

The integration of criminality into the globalized economy has led to an infusion into national governments as well.²⁶⁴ Naím calls these criminally penetrated governments “mafia states,” where “officials enrich themselves [using] global connections [to] criminal syndicates.”²⁶⁵ In several cases, Naím acknowledges, “high government officials actually become integral players in, if not the leaders of, criminal enterprises.”²⁶⁶ Naím provides several case studies in support, one of them being the story of Rene Sanabria, Bolivia’s anti-drug czar, who “was arrested by U.S. federal agents in Panama and charged with plotting to ship ... cocaine to Miami.”²⁶⁷ Naím concludes that any fight against “transnational crime must mean more than curbing the traffic of counterfeit goods, drugs, weapons, and people; it must also involve preventing and reversing the criminalization of governments.”²⁶⁸

During the early conceptualizations of human trafficking, efforts to control trafficking were viewed through a lens of “transnational criminal enterprise[s]” whose focus only narrowed in the aftermath of September 11.²⁶⁹ Many issues developed early on as repeated failures to recognize victimization and human rights abuses were obstructed by efforts to combat “organized criminal activity.”²⁷⁰ The federalized system in the United States creates a variety of unique problems for the crime control model. Specific disparities between federal guidelines through the TVPA and actual enforcement

²⁶³ Naím, “The Five Wars of Globalization,” 31.

²⁶⁴ Moisés Naím, “Mafia States: Organized Crime Takes Office,” *Foreign Affairs*, May/June, 2012, 2, <http://www.foreignaffairs.com/articles/137529/Moisés-Naím/mafia-states>.

²⁶⁵ *Ibid.*

²⁶⁶ Naím, “Mafia States,” 2

²⁶⁷ *Ibid.*, 4.

²⁶⁸ *Ibid.*, 6.

²⁶⁹ Obuah, “Combating Global Trafficking,” 242.

²⁷⁰ *Ibid.*, 243.

of anti-trafficking initiatives exist, especially with respect to the prostitution of minors.²⁷¹ Some states have limited resources and turn to prosecutorial proceedings to incentivize cooperation or simply to keep minors “off the streets and away from their pimps.”²⁷² Although Susan Crile does recognize the “savings clause” in the TVPA, which states ““nothing in [the TVPA] ... shall preempt, supplant, or limit the effect of any State or Federal criminal law,””²⁷³ she concludes that “the TVPA preempts the application of state criminal prostitution laws to minors.”²⁷⁴

Kotrla finds redemption in extending services for victims and in a reduction of demand whether through societal shaming or adoption of the “Swedish model” of criminalizing consumers.²⁷⁵ Approaching human trafficking through a model of international crime poses many difficulties. For a variety of structural and domestic political reasons, “government corruption facilitates much of the trafficking industry, [therefore] many countries have been unwilling to share intelligence” concerning trafficking networks.²⁷⁶ Hepburn and Simon highlight that based on fear or distrust, “not all victims want to participate in the investigation and prosecution of their traffickers.”²⁷⁷ The crime control approach to human trafficking can be “analogous to the war on drugs,” a series of futile efforts for an uncompromisingly important cause.²⁷⁸

The crime control model promotes “efforts that are largely supply-driven” and struggle to address the “underlying structural problems of the U.S.-led global economy,” which fosters capitalistic exploitations and vulnerabilities driven by demand.²⁷⁹ The use

²⁷¹ Susan Crile, “A Minor Conflict: Why the Objectives of Federal Sex Trafficking Legislation Preempt the Enforcement of State Prostitution Laws Against Minors,” *American University Law Review* 61 (2012): 1787.

²⁷² *Ibid.*, 1790.

²⁷³ *Ibid.*, 1798.

²⁷⁴ *Ibid.*, 1807.

²⁷⁵ Kotrla, “Domestic Minor Sex Trafficking,” 186.

²⁷⁶ Ryf, “The First Modern anti-Slavery Law,” 61.

²⁷⁷ Hepburn and Simon, “Hidden in Plain Sight,” 19.

²⁷⁸ Ryf, “The First Modern anti-Slavery Law,” 71.

²⁷⁹ Obuah, “Combating Global Trafficking,” 261.

of prosecutions as representative of successful crime control policy is disheartening when compared to the size and scope of the trafficking industry.²⁸⁰ As previously noted, “the operational definition bears direct implications on criminal investigations and prosecutions.”²⁸¹ In the crime control model, with sex trafficking in particular, “government officials ... decide who are authentic victims” based on structural legibility contrived through “cultural narratives, ... courts and legal system[s], human-rights organizations, and state discourses.”²⁸² Lagon highlights that “prosecution has received the most emphasis to date,” but is “limited in general, and minimal for non-sexual exploitation.”²⁸³

Hodge highlights that organized criminal enterprises have “increasingly dominated sexual trafficking.”²⁸⁴ These criminal elements have focused on “complex, organized networks of recruiters, transporters, and pimps,” which only exasperates the traditionally dispersed and non-hierarchical nature of human trafficking in the United States.²⁸⁵ Criminals who simply abduct their trafficking victims rely on “well-tested routes used to smuggle narcotics, arms, and other illegal goods” including their human commodities.²⁸⁶ These illicit routes are sustainable “given the clandestine nature” of criminal enterprises.²⁸⁷ Naím acknowledges an anonymous CIA officer who “reported that international criminal gangs are able to move people, money, and weapons globally faster than he can move resources inside his own agency.”²⁸⁸ Criminal enterprises “pit bureaucracies against [diversified] networks.”²⁸⁹ W. L. Neuman and Ronald J. Berger explain “opportunity theory, argu[ing] that crime occurs in spatially and temporally

²⁸⁰ Obuah, “Combating Global Trafficking,” 261.

²⁸¹ Zhang, “Measuring Labor Trafficking,” 473.

²⁸² Hua, “Telling Stories,” 204.

²⁸³ Lagon, “The Global Abolition of Human Trafficking,” 91.

²⁸⁴ Hodge, “Sex Trafficking in the United States,” 144.

²⁸⁵ Ibid.

²⁸⁶ Ibid.

²⁸⁷ Weitzer, “Sex Trafficking and the Sex Industry,” 1356.

²⁸⁸ Naím, “The Five Wars of Globalization,” 35.

²⁸⁹ Ibid.

organized social contexts that provide ‘favorable’ environmental conditions for the execution of criminal acts.”²⁹⁰ The human trafficking environment fits this theory, as “population mobility and cultural diversity increase, the protection and social control mechanisms provided by large, stationary kinship groups” decrease, putting the most vulnerable at further risk to exploitation.²⁹¹

Globalization, and the opening of governments, may lead to increases in democratization that may actually “help criminal cartels, which can manipulate weak public institutions” including law enforcement and political processes.²⁹² Barak concludes that informational and economic globalization has allowed “both the legitimate and illegitimate fields of criminal enterprise” to be “freed-up for the greater exploitation of all of humankind.”²⁹³

A post-9/11 intersection between human trafficking and crime control is found in the U.S.’ concentration on special interest aliens (SIA) from high terrorist threat countries who by their nationality are “automatically deemed security risks when they” arrive at U.S. borders.²⁹⁴ Todd Bensman informs his readers, “the U.S. State Department singles out Guatemala as one of the world’s busiest transshipment nations for undocumented immigrants of every nationality.”²⁹⁵ A sub-group of these immigrants are “special-interest immigrants from the Middle East, Africa and South Asia [who] blend in easily ... moving inexorably north.”²⁹⁶ Bensman’s article notes that a “U.S.-led enforcement operation in the county began targeting smuggling rings here in the 1990s, mainly networks that trafficked in women and children, all victims of sexual exploitation, when

²⁹⁰ W. L. Neuman and Ronald J. Berger, “Competing Perspectives on Cross-National Crime: An Evaluation of Theory and Evidence,” *Sociological Quarterly* 29, no. 2 (Summer 1988): 287–288, doi:10.1111/j.1533-8525.1988.tb01255.x.

²⁹¹ *Ibid.*, 288.

²⁹² Naím, “The Five Wars of Globalization,” 34.

²⁹³ Barak, “Crime and Crime Control,” 70.

²⁹⁴ Todd Bensman, “The Latin Connection,” *San Antonio Express*, May 21, 2007, 01A, <http://infoweb.newsbank.com.libproxy.nps.edu/resources/doc/nb/news/11948F0ECB0FE0F0?p=AWNB>.

²⁹⁵ *Ibid.*, 2.

²⁹⁶ *Ibid.*

that was a priority.”²⁹⁷ Ignoring human trafficking needs “after 9–11, U.S. immigration agents in Guatemala shifted gears” and focused on SIA instead.²⁹⁸ Bensman shares an interview with Guatemala’s former head of human trafficking enforcement who conceded that illicit smuggling was “the No. 1 cash industry for government officials in Guatemala,” demonstrating the lack of incentive to halt the trafficking.²⁹⁹ Even with an emphasis on catching would be terrorists in the form of SIAs, most Guatemalan border officials were “on the take from smuggling organizations,” so much so that even the assumed threat of a terrorist attack did not slow illegal border crossings.³⁰⁰ Bensman drives this point further highlighting that Guatemalan “police and immigration officers ... are not exactly motivated to shut down traffic and worry about terrorism” let alone trafficked women and children, as they are “collecting cash tolls from busloads of the migrants.”³⁰¹

²⁹⁷ Bensman, “The Latin Connection,” 3.

²⁹⁸ Ibid.

²⁹⁹ Ibid.

³⁰⁰ Ibid., 4.

³⁰¹ Ibid., 8.

III. DEPARTMENT OF STATE

The DOS's stance on human trafficking developed from a desire to direct the international environment and extend diplomatic reach to fight human trafficking overseas to deter trafficking from reaching U.S. shores. These efforts were an embrace of the post-9/11 security environment manifested in the war on terror, which was influential in all decision making of the DOS. Initially, the externalization of human trafficking issues and the spotlighting of the failures of the international community, generally boosted the DOS's footing and abilities to drive parallel pro-securitization and anti-trafficking efforts. The early U.S. government fears of transnational terrorism and human trafficking were connected by the assumption that both enterprises were integrated into convergent networks. As the first decade of the millennium progressed, the DOS expanded its approach by increasing introspection and emphasizing exemplary U.S. anti-trafficking policies and actions alongside opportunities for improvement.

A. BACKGROUND

As noted in the 2004 Attorney General's report on U.S. governmental efforts to combat trafficking in persons, "The ideal way to combat trafficking is to forestall the victimization of people in the first place."³⁰² This preemptive action is the responsibility of the United States "because the [United States] is a destination country for trafficked people."³⁰³ In the point position, the DOS takes a proactive role in national anti-trafficking efforts. The goal of the DOS "is to understand the situations in which vulnerable populations find themselves within source countries, particularly with respect to labor markets and other social and economic factors," and to fund services providing programs in substantive areas.³⁰⁴

³⁰² United States Attorney-General, *Fiscal Year 2003*, 28.

³⁰³ *Ibid.*

³⁰⁴ *Ibid.*

During the most recent annual summit of the President’s Interagency Task Force to Monitor and Combat Trafficking in Persons, Secretary of State John Kerry opened the meeting with a reaffirmation that “preventing human trafficking, unlike some of the issues we wrestle with which are defined by nuance or by some complexity, ... is absolutely an issue of extreme moral clarity.”³⁰⁵

As related by the Palermo Protocol and the TVPA, “the ‘3P’ paradigm—prevention, protection, and prosecution—continues to serve as the fundamental international framework used by the United States and the world to combat contemporary forms of slavery.”³⁰⁶ The DOS emphasizes solidarity with the Palermo Protocol and the International Labor Organization (ILO) Convention 182 in its many international efforts and compliance with the TVPA.³⁰⁷

The Office to Monitor and Combat Trafficking in Persons, established in October 2001, is the DOS’s anti-trafficking headquarters, and “coordinates international anti-trafficking programs and conducts outreach with non-governmental ... and international organizations.”³⁰⁸ The *Trafficking in Persons (TIP)* report series, created by the DOS trafficking office, demonstrates that the U.S. government understands the requirements for a whole-of-government, inter-departmental, and international approach to combat human trafficking effectively. Many of the DOS’s initial anti-trafficking efforts were influenced by parallel international anti-terrorism actions.

The main thrust of the DOS’s influence is through ranking international anti-human trafficking efforts. The TIP report ranking system functions as a record of accountability and as a guide for improvement. The DOS sources information and

³⁰⁵ “Annual Meeting of the President’s Interagency Task Force to Monitor and Combat Trafficking in Persons (PITF) (All Participants),” last modified January 5, 2016, <http://www.state.gov/j/tip/rls/rm/2016/251006.htm>.

³⁰⁶ “Prevention,” accessed March 30, 2016, <http://www.state.gov/j/tip/4p/prevent/>.

³⁰⁷ United States Department of State, *Victims of Trafficking and Violence Protection Act 2000, Trafficking in Persons Report: June 2002* (Washington, DC: U.S. Department of State, 2002), 5–6, <http://www.state.gov/documents/organization/10815.pdf>.

³⁰⁸ United States Department of State, *Trafficking in Persons Report: June 2003* (Washington, DC: U.S. Department of State, 2003), 169, <http://www.state.gov/documents/organization/21555.pdf>.

statistical data for the annual TIP reports organically through Foreign Service assets, as well as through various NGOs, “published reports, news articles, academic studies,” and “research trips.”³⁰⁹ The data collected allows the DOS to rank individual governments on “compliance with the TVPA’s minimum standards for the elimination of human trafficking.”³¹⁰ The minimum standards set by the TVPA include the legal prohibition of “severe forms of trafficking in persons” enforced through “punishment commensurate with that for grave crimes.”³¹¹ Ranked governments fall into either Tier 1, Tier 2, Tier 2 Watch List, or Tier 3.³¹² Governments ranked as Tier 1 “fully comply with the TVPA’s minimum standards for the elimination of trafficking.”³¹³ Governments ranked as Tier 2 “do not fully comply with the TVPA’s minimum standards but are making significant efforts.”³¹⁴ Governments ranked as Tier 2 Watch List “do not fully comply with the TVPA’s minimum standards,” and “fail[] to provide evidence of increasing efforts” compared to that of “the previous year.”³¹⁵ Governments ranked as Tier 3 “do not fully comply with the TVPA’s minimum standards and are not making significant efforts to do so.”³¹⁶ The TIP report emphasizes that all governments should strive to exceed minimum TVPA standards.³¹⁷ The DOS’s “priority is to help the governments of countries in Tiers 2 and 3 and some less developed countries in Tier 1 that are eligible for assistance and committed to combatting trafficking.”³¹⁸ Engaging with the three “P” paradigm—to prevent, protect, and prosecute—the DOS focuses on “disseminating information on the dangers of trafficking, strengthening the capacity of women’s and anti-trafficking

³⁰⁹ United State Department of State, *Trafficking in Persons Report: July 2015* (Washington, DC: U.S. Department of State, 2015), 45, <http://www.state.gov/documents/organization/245365.pdf>.

³¹⁰ Ibid.

³¹¹ Ibid., 49.

³¹² Ibid., 47.

³¹³ Ibid.

³¹⁴ Ibid.

³¹⁵ Ibid.

³¹⁶ Ibid.

³¹⁷ Ibid., 45.

³¹⁸ United States Department of State, *Trafficking in Persons Report: June 2003*, 170.

organizations, ... and [developing] outreach and economic opportunity programs for those most at risk of being trafficked.”³¹⁹ The TIP report series “is the U.S. government’s principal diplomatic tool used to engage foreign governments on the subject.”³²⁰

The early iterations of the DOS’s TIP reports acknowledge the U.S. government’s misperceptions about the nature and breadth of human trafficking, which was primarily based on preconceptions and sensationalism without proportional regard for labor trafficking concerns. The initial TIP reports maintain some conceptual flaws that are not remedied until later in the first decade of the 2000s. These flaws are specifically related to the external perspective of the DOS, exemplified by the unverified statement that “45,000 to 50,000 people, primarily women and children, are trafficked to the U.S. annually.”³²¹ This statement demonstrates a lack of understanding of human trafficking, which is exploitation of vulnerable populations, and not physical transportation.³²²

By 2007, in parallel with waning attitudes toward external securitization via the war on terror, the DOS transitioned to an introspective approach in the understanding and countering of human trafficking. The TIP reports evolved, and they reflected increasingly critical analysis of U.S. anti-trafficking efforts. With better understanding of the nature of human trafficking, the DOS departs from its earlier conceptualization of human trafficking as an external issue and accurately defines the United States as “a source and destination country for thousands of men, women, and children trafficked for the purposes of sexual and labor exploitation.”³²³ Increasingly taking a critical domestic perspective, the TIP report concedes, “an unknown number of American citizens and

³¹⁹ United States Department of State, *Victims of Trafficking and Violence Protection Act 2000, Trafficking in Persons Report: July 2001* (Washington, DC: U.S. Department of State, 2001), 3, <http://www.state.gov/documents/organization/4107.pdf>.

³²⁰ United States Attorney-General, *Attorney General’s Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons Fiscal Year 2006* (Washington, DC: U.S. Department of Justice, 2007), 39, <https://www.justice.gov/archive/ag/annualreports/tr2006/agreporthumantrafficking2006.pdf>.

³²¹ United States Department of State, *Trafficking in Persons Report: July 2001*, 3.

³²² Ibid.

³²³ United States Department of State, *Trafficking in Persons Report: June 2007* (Washington, DC: U.S. Department of State, 2007), 49, <http://www.state.gov/documents/organization/82902.pdf>.

legal residents are trafficked within the country primarily for sexual servitude and, to a lesser extent, forced labor.”³²⁴ This acknowledgement demonstrates an understanding of the prevalence of domestic human trafficking in the United States and a divergence from the myopic singular focus on the externalized nature of threats originally supported by the war on terror. With this evolved perspective, the TIP report delved deeper into analysis and started to rank the U.S. anti-trafficking efforts as of 2010, with an inaugural Tier ranking of 1.³²⁵

Although the DOS’s responsibility in combating trafficking in the United States is rooted in the international arena, the DOS “conduct[s] training programs for U.S. government officials,” “issue[s] regulations and establish[es] guidelines regarding the protection and assistance for trafficking victims, and ... fund[s] anti-trafficking activities in the United States.”³²⁶ The DOS’s internationally focused actions to combat human trafficking include

economic alternative programs for vulnerable groups; education programs; training for government officials and medical personnel; development or improvement of anti-trafficking laws; provision of equipment for law enforcement; establishment or renovation of shelters, crisis centers, or safe-houses for victims ... and support for psychological, legal, medical, and counseling services for victims.³²⁷

The DOS’s approach to countering human trafficking developed in the international system. As an externally referenced department, the DOS initially struggled with introspection. Over time, in concert with a national retreat to an internal focus, the DOS was able to reflect on the importance of domestic awareness and responsibility in regards to human trafficking factors. This transition is reflected primarily in its own substantial reporting on human trafficking with increasing self-analysis and national accountability. The enhanced awareness of the DOS demonstrates the development of an

³²⁴ United States Department of State, *Trafficking in Persons Report: June 2007*, 49.

³²⁵ United States Department of State, *Trafficking in Persons Report 10th Edition: June 2010*, (Washington, DC: U.S. Department of State, 2010), 338, <http://www.state.gov/documents/organization/142979.pdf>.

³²⁶ United States Department of State, *Trafficking in Persons Report: June 2002*, 4.

³²⁷ *Ibid.*, 5.

effective approach to human trafficking that focuses on the universal anti-trafficking leverage points of agency, labor, the sex industry, and crime control.

B. AGENCY

The TIP report of 2004, emphasizing the importance of victims' needs, began to underscore the roles of the HHS certification benefits and DOJ's Office for Victims of Crime have on serving the needs of victims.³²⁸ The 2004 TIP report demonstrates that the mandates and goals of the TVPA are beginning to take hold as "continued presence" and "T non-immigrant" visa granting is prioritized.³²⁹

The DOS provides "services to protect victims and survivors of human trafficking."³³⁰ The DOS funds the Fair Trade Fund. The Fair Trade Fund operates a mobile application known as Slavery Footprint, which allows consumers to "understand how their lives may intersect with modern slavery and to make informed purchasing decisions."³³¹

The 2005 TIP report discusses the DOS Bureau of Population, Refugees, and Migration, which "provides assistance to migrants in need, especially victims of trafficking in persons."³³² The DOS Bureau of Population, Refugees, and Migration funds the Return, Reintegration, and Family Reunification Program for Victims of Trafficking, and "helps eligible family members join trafficking victims with T visa status ... through the provision of financial and logistical support."³³³ The DOS's victim-centric focus on combating human trafficking is expressed through the TVPA inspired "P" of protection. The objective is to use the "three Rs of 'rescue, rehabilitation, and

³²⁸ United States Department of State, *Trafficking in Persons Report: June 2004* (Washington, DC: U.S. Department of State, 2004), 257, <http://www.state.gov/documents/organization/34158.pdf>.

³²⁹ *Ibid.*, 258.

³³⁰ United States Department of State, *Accomplishments Document (FULL): President's Interagency Task Force 2013* (Washington, DC: U.S. Department of State, 2013), 7, <http://www.state.gov/documents/organization/207420.pdf>.

³³¹ *Ibid.*, 8.

³³² United States Department of State, *Trafficking in Persons Report: June 2005* (Washington, DC: U.S. Department of State, 2005), 240, <http://www.state.gov/documents/organization/47255.pdf>.

³³³ United States Department of State, *Accomplishments Document*, 9.

reintegration” with efforts to “provide emergency assistance and services; effective placement in stable, long-term situations; and access to educational, vocational and economic opportunities for survivors of modern day slavery.”³³⁴

Maintaining lines of communication directly with victims, furthering the development of agency, “the DOS TIP Office hosted a 2013 meeting with the National Survivor Network (NSN).”³³⁵ The NSN was developed to be “a coalition that brings together a community of survivors of human trafficking by creating a platform for survivor-led advocacy, peer-to-peer mentorship, and empowerment.”³³⁶ Through these collaborative meetings the “government has incorporated survivor feedback” and, together with NSN members, developed “the Federal Strategic Action Plan on Services for Victims of Human Trafficking.”³³⁷

C. LABOR

In 2010, the TIP report changed its domestic trafficking conceptualization once again, bringing more accuracy and clarity to the discussion by emphasizing that “trafficking occurs primarily for labor and most commonly in domestic servitude, agriculture, manufacturing, janitorial services, hotel service, construction, health and elder care, hair and nail salons, and strip club dancing.”³³⁸ The TIP report makes clear that the United States has more labor trafficking victims, but clarifies that “more U.S. citizens, both adult and children, are found in sex trafficking than labor trafficking,” whereas “more foreign victims are found in labor trafficking than sex trafficking.”³³⁹

The 2010 TIP report was one of the first sources to highlight the “treatment of workers sponsored by foreign diplomats in the United States” and emphasize greater DOS engagement in regulating rights and responsibilities, which increased attention to

³³⁴ “Protection,” accessed March 30, 2016, <http://www.state.gov/j/tip/4p/protect/>.

³³⁵ United States Department of State, *Trafficking in Persons Report: Fiscal Year 2013*, 11.

³³⁶ *Ibid.*

³³⁷ *Ibid.*

³³⁸ United States Department of State, *Trafficking in Persons Report 10th Edition: June 2010*, 338.

³³⁹ *Ibid.*

and scrutiny of diplomats and their temporary work visas holders.³⁴⁰ Recently, the DOS, in partnership with the DOL, directed the A-3, G-5, H-2A, H-2B, and the J-1 visa programs to be significantly scrutinized with the objective of protecting wages and working conditions and inhibiting coercion through debt bondage, inherent in the burdensome job placement and recruitment fees, levied on temporary workers.³⁴¹ The DOS “invited domestic workers employed by foreign diplomatic personnel in the Washington, DC area to a briefing to apprise them of their rights and responsibilities.”³⁴² The DOS

has also implemented measures intended to protect domestic servants from abuse including, most notably, a new requirement that all domestic servants be paid by check or electronic funds transfer directly into a bank account ... and [that all] contracts spelling out duties and remuneration [be] kept on file with the Department of State.³⁴³

In addition, on the domestic front, the DOS “updated the prevailing wage rate members of foreign mission must pay domestic workers in the United States.”³⁴⁴

The DOS “continued to work toward fundamental reform of the J-1 visa Summer Work and Travel (SWT) Program,” and “prohibited jobs deemed dangerous to health, safety, and welfare, and those considered inappropriate for a cultural exchange.”³⁴⁵ Other visa programs earned attention as well, as the DOS now

requires contractors to provide both a recruitment plan for hiring ... as well as a detailed housing plan, as part of the initial proposal ... [and] requires providing employees with contracts in their native language prior to departure from their home country, barring employees being charged

³⁴⁰ United States Department of State, *Trafficking in Persons Report 10th Edition: June 2010*, 343.

³⁴¹ United State Department of State, *Trafficking in Persons Report: July 2015*, 356.

³⁴² United States Department of State, *Accomplishments Document*, 6.

³⁴³ United States Attorney-General, *Attorney General’s Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2010* (Washington, DC: U.S. Department of Justice, 2010), 9, <https://www.justice.gov/archive/ag/annualreports/agreporthumantrafficking2010.pdf>.

³⁴⁴ United States Department of State, *Accomplishments Document*, 6.

³⁴⁵ *Ibid.*

recruitment fees for the contract, and clearly outlining benefits and salary deductions.³⁴⁶

The DOS puts heavy emphasis on labor rights and protections, and focuses prevention efforts through international engagement. The second “P” in the paradigm represents prevention and

encapsulates cross-cutting endeavors that include: rectifying laws that omit classes of workers from labor law protection; providing robust labor enforcement, particularly in key sectors where trafficking is most typically found; implementing measures that address significant vulnerabilities, ... and carefully constructing labor recruitment programs that ensure protection of workers from exploitation.³⁴⁷

The DOS “awards grants to support organizations promoting internationally recognized labor standards.”³⁴⁸

D. THE SEX INDUSTRY

Broadly, the DOS’s internationally directed focus does not use the TIP report to pressure the international community to abolish prostitution, as prostitution is legal to varying degrees in many allied countries. The DOS desires to set the highest anti-trafficking standards by ensuring strong strategic messaging and demonstrating accountability for its personnel. The DOS maintains a zero-tolerance policy for employees and contractors under Chief of Mission authority engaging in “the procurement of commercial sex,” regardless of the local prostitution laws.³⁴⁹

E. CRIME CONTROL

The third “P,” prosecution, is focused externally. Competitive international ranking through the TIP report compels the international community to “implement global prosecution standards to ensure that justice is served.”³⁵⁰ The DOS’s TIP reports

³⁴⁶ United States Department of State, *Accomplishments Document*, 7.

³⁴⁷ “Prevention.”

³⁴⁸ United States Department of State, *Accomplishments Document*, 9.

³⁴⁹ *Ibid.*, 5.

³⁵⁰ “Prosecution,” accessed March 30, 2016, <http://www.state.gov/j/tip/4p/prosecute/>.

“encourage the enactment of anti-trafficking laws throughout the world.”³⁵¹ TIP report “research has indicated a correlation between low tier rankings and new criminalization of trafficking in persons.”³⁵² By 2008, TIP reporting “marked a new watershed: it documented that over half of the world’s governments covered in the report have ... enacted legislation criminally prohibiting all forms of trafficking.”³⁵³ The DOS’s TIP reports are compelling and persuasive, creating structural changes in international crime control efforts. One such structural change is in child sex tourism. Demonstrating the leveraging of international partnerships and legalistic approaches to tackle transnational issues, the PROTECT Act of 2003 “allows law enforcement officers to prosecute Americans who travel abroad and sexually abuse minors, without having to prove prior intent to commit illicit crimes.”³⁵⁴

The DOS’s organic investigative unit, the Bureau of Diplomatic Security (BDS) “conducts human trafficking investigations that have a nexus to passport or visa fraud through the Human Trafficking Unit (HTU) in its Criminal Division.”³⁵⁵ The BDS is of particular importance in efforts directed against transnational aspects of human trafficking because it “is the primary law enforcement office responsible for the investigations of all human trafficking-related allegations against foreign diplomatic personnel and individuals assigned to international organizations in the United States.”³⁵⁶

The 2005 TIP report acknowledges the existence of the HSTC, but does not highlight its importance, as it only recites, “the Center will achieve greater integration and overall effectiveness in the U.S. government’s enforcement and other response efforts, and work with other governments to address the separate but related issues of

³⁵¹ United States Department of State, *Accomplishments Document*, 4.

³⁵² *Ibid.*

³⁵³ United States Attorney-General, *Attorney General’s Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2009* (Washington, DC: U.S. Department of Justice, 2010), 73, <https://www.justice.gov/archive/ag/annualreports/tr2009/agreporthumantrafficking2009.pdf>.

³⁵⁴ United States Department of State, *Trafficking in Persons Report: June 2004*, 255.

³⁵⁵ United States Attorney-General, *Fiscal Year 2013*, 59.

³⁵⁶ *Ibid.*

alien smuggling, trafficking in persons, and smuggler support of clandestine terrorist travel.”³⁵⁷ The DOS’s Trafficking Office does not acknowledge any coordination with the HSTC, which demonstrates the DOS’s appropriate focus and approach to anti-trafficking efforts.³⁵⁸

The 2010 TIP report recommends trafficking cases receive higher prioritization, and planners “intensify anti-trafficking task forces by replicating models used for counternarcotics and counterterrorism.”³⁵⁹ Integrating into interstate and interagency counter-terrorism resources “federal agencies developed a referral protocol to enable 50 ‘fusion centers’ to share information related to law enforcement investigations, and began a pilot project in 10 countries to increase the flow of information about human trafficking overseas with a nexus to the United States.”³⁶⁰ Taking a lead from integrated task forces implemented successfully after 9/11 to interdict terrorists, organizations and structures that were developed have proved helpful to the crime control aspects of combating human trafficking. The 2004 TIP report stresses the year over year increases in federal trafficking prosecutions.³⁶¹

According to the TIP report, as of 2006, more than half of the 50 U.S. states “had passed criminal anti-trafficking legislation.”³⁶² The domestic perspective began to turn inward as states recognized their responsibility to take the initiative and deal with the local problem of human trafficking. By 2009, “forty-two states [had] enacted specific anti-trafficking statutes,”³⁶³ but implementation [was] still developing due to an “emphasis on sex trafficking” over labor trafficking.³⁶⁴

³⁵⁷ United State Department of State, *Trafficking in Persons Report: July 2015*, 245.

³⁵⁸ United State Department of State, *Trafficking in Persons Report: July 2015*.

³⁵⁹ United States Department of State, *Trafficking in Persons Report 10th Edition: June 2010*, 338.

³⁶⁰ United States Department of State, *Trafficking in Persons Report: June 2014* (Washington, DC: U.S. Department of State, 2014), 399, <http://www.state.gov/documents/organization/226849.pdf>.

³⁶¹ United States Department of State, *Trafficking in Persons Report: June 2004*, 258.

³⁶² United States Department of State, *Trafficking in Persons Report: June 2007*, 49.

³⁶³ United States Department of State, *Trafficking in Persons Report 10th Edition: June 2010*, 339.

³⁶⁴ *Ibid.*, 340.

Progress at the state level is being made, but “the prostitution of children has traditionally been handled as a vice crime or a juvenile justice issue and the anti-trafficking approach of the [T]VPA has been slow to fully permeate the state child protection and juvenile justice systems.”³⁶⁵ The TIP report of 2011 began to emphasize the need for “specialized training to law enforcement and service providers in jurisdictions serving Native American communities,” as the unconventional oil boom in America has increased demand for prostitution in newly formed oil worker communities.³⁶⁶ As of 2015, the TIP report maintains, “there is no formal mechanism to track prosecutions at the state and local levels.”³⁶⁷

F. CONCLUSION

The DOS develops and expresses the U.S.’ international stance on human trafficking. The DOS transitioned to introspection and accountable leadership in its approach to combating human trafficking after several years of detachment and an exclusively external focus; thereby, setting the standard for anti-trafficking efforts. The recognition of the internal dynamics of human trafficking was demonstrated in self-reporting on trafficking successes and shortcomings. In recent years, the DOS capitalized on its diplomatic influence by pulling both subtle and overt global anti-trafficking persuasive levers in the interests of agency, labor, the sex industry, and crime control.

³⁶⁵ United States Department of State, *Trafficking in Persons Report 10th Edition: June 2010*, 342.

³⁶⁶ United States Department of State, *Trafficking in Persons Report: June 2011* (Washington, DC: U.S. Department of State, 2011), 375, <http://www.state.gov/documents/organization/164458.pdf>.

³⁶⁷ United State Department of State, *Trafficking in Persons Report: July 2015*, 354.

IV. DEPARTMENT OF JUSTICE

The DOJ, led by the Attorney General, includes many bureaus, divisions, and offices collectively known as agencies.³⁶⁸ Each agency has varied resources and responsibilities, all in the service to the DOJ and the enforcement of federal law. Enforcement of the TVPA, as a remedy to violations of civil rights, falls to the DOJ. This mandate was initially developed through the Thirteenth Amendment to the U.S. Constitution, which prohibits all forms of slavery and involuntary servitude, and which is clearly reflected in the TVPA.³⁶⁹ Contended by the Office of the Attorney General, “Human trafficking cases are among the most labor- and time-intensive matters undertaken by the Department of Justice.”³⁷⁰

A. BACKGROUND

The Federal Bureau of Investigation (FBI) is one of the agencies under the DOJ and has a legal mandate to investigate and interdict human trafficking.³⁷¹ The FBI recognizes human trafficking crimes as “peonage, slavery, involuntary servitude, or forced labor; sex trafficking by force, fraud, or coercion; and unlawful conduct with respect to documents in furtherance of trafficking”³⁷² as defined in Title 18, Chapter 77 in the U.S. Code.³⁷³ The FBI’s criminal investigative expertise utilizes “lawful, sophisticated techniques—such as undercover investigations and Title III wire intercepts—to take down trafficking organizations, recover victims, and intercept traffickers before they are able to victimize others.”³⁷⁴

³⁶⁸ “Agencies,” accessed July 17, 2016, <https://www.justice.gov/agencies>.

³⁶⁹ “Human Trafficking Prosecution Unit (HTPU),” accessed March 30, 2016, <https://www.justice.gov/crt/human-trafficking-prosecution-unit-htpu>.

³⁷⁰ United States Attorney-General, *Fiscal Year 2003*, 17.

³⁷¹ “FBI—Human Trafficking,” accessed March 30, 2016, https://www.fbi.gov/about-us/investigate/civilrights/human_trafficking.

³⁷² *Ibid.*

³⁷³ “Human Trafficking Prosecution Unit (HTPU).”

³⁷⁴ “FBI—Human Trafficking.”

Adjacent to the FBI, another agency within the DOJ is the Civil Rights Division (CRT). The CRT maintains a Criminal Section and a Human Trafficking Prosecution Unit (HTPU). The CRT, in collaboration with another adjacent agency, the U.S. Attorneys' Offices (USAOs), "have principal responsibility for prosecuting human trafficking crimes, except cases involving sex trafficking of minors."³⁷⁵ Additionally, on the prosecutorial front, another DOJ agency, the Criminal Division, maintains the Child Exploitation and Obscenity Section (CEOS), and with support from the U.S. Attorneys' Office, combats all forms of child exploitation including human trafficking and sex tourism cases;³⁷⁶ the CEOS is the "DOJ's subject matter-expert on child sexual exploitation offenses."³⁷⁷

The FBI structures investigations to mirror prosecution efforts of adjacent DOJ agencies. Internally, the FBI maintains two sections tasked with investigating the trafficking of adults and children separately. These separate sections within the FBI investigate human trafficking through the Civil Rights Unit (CRU), which "is responsible for overseeing all human trafficking investigations involving adults (domestic or foreign), foreigners, and sex trafficking cases involving foreign minor victims," and the Violent Crimes Against Children Section (VCACS), which "is responsible for investigating cases involving the commercial sexual exploitation of domestic minors."³⁷⁸

B. AGENCY

Collaborative methods have been developed to support trafficking victims better. The DOJ, the HHS, and the DHS "have formed, trained, equipped, and funded teams of state, local, and federal law enforcement, prosecutors, and victim services providers ... to investigate criminal organizations, rescue victims, and hold perpetrators accountable."³⁷⁹ Specifically, the BJA within the DOJ sustains 42 additional human trafficking task

³⁷⁵ United States Department of State, *Trafficking in Persons Report: Fiscal Year 2013*, 61.

³⁷⁶ United States Department of State, *Accomplishments Document*, 13.

³⁷⁷ United States Attorney-General, *Fiscal Year 2013*, 61.

³⁷⁸ *Ibid.*, 55.

³⁷⁹ United States Department of State, *Trafficking in Persons Report: June 2005*, 244.

forces, which “bring together federal, state, and local law enforcement authorities, government agencies, and nongovernmental victim-service providers.”³⁸⁰ The DOJ’s Office for Victims of Crime (OVC) funds “seven new enhanced model task forces to support a comprehensive, victim-centered approach to combatting all forms of trafficking.”³⁸¹ Internally, the OVC’s Legal Assistance Capacity Building Initiative was developed in coordination with the DOJ’s Bureau of Justice Assistance (BJA) ensuring crime victims, including victims of trafficking, receive adequate legal counsel when required.³⁸² Throughout most human trafficking investigations involving children, “the FBI OVA collaborate[s] with the FBI’s Violent Crimes Against Children Section.”³⁸³ The OVC “provide[s] trafficking victims with comprehensive or specialized services” through grants awarded to NGOs.³⁸⁴

C. LABOR

The DOJ focuses its anti-labor trafficking efforts through extensive coordination with fellow departments capitalizing on synergistic expertise. The CRT, in coordination with the U.S. Attorneys’ offices and collaboration with the FBI, partners with the DHS Immigration and Customs Enforcement/Homeland Security Investigations Unit, and the DOL, to lead Anti-Trafficking Coordination Teams (ACTeam).³⁸⁵ ACTeams are supported by

a multi-agency initiative aimed at building human trafficking enforcement efforts and enhancing access to specialized human trafficking subject matter experts, leads, and intelligence. Each ACTeam develops and

³⁸⁰ “Human Trafficking Prosecution Unit (HTPU).”

³⁸¹ United States Department of State, *Accomplishments Document*, 18.

³⁸² *Ibid.*

³⁸³ United States Attorney-General, *Fiscal Year 2013*, 45.

³⁸⁴ United States Attorney-General, *Attorney General’s Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons in Fiscal Year 2004* (Washington, DC: U.S. Department of Justice, 2005), 12, <https://www.justice.gov/archive/ag/annualreports/tr2004/agreport/humantrafficking.pdf>.

³⁸⁵ United States Department of State, *Accomplishments Document*, 16.

implements a strategic action plan, which leads to high-impact federal investigations and prosecutions.³⁸⁶

D. SEX INDUSTRY

The DOJ recognizes the unique relationship state and local law enforcement have to the sex industry. State and local law enforcement are essential to the effective countering of sex trafficking by intelligence-led policing of sex industries within their jurisdictions to ensure timely victim identification and protection when required. An “important DOJ initiative in FY05 was the promotion of the Model State Anti-Trafficking Statute.”³⁸⁷ A model statute was developed “to expand anti-trafficking authority to the states in order to harness the almost one million state and local law enforcement officers who might come in contact with trafficking victims,” [and] “to encourage [states] to adopt the model law in order to promote enforcement uniformity and as part of a national strategy to combat human trafficking.”³⁸⁸

E. CRIME CONTROL

Inside the criminal section of the Civil Rights Division of the DOJ, the HTPU was launched in 2007 “consolidate[ing] the expertise of some of the nation’s top human trafficking prosecutors.”³⁸⁹ The HTPU contends, “because of enhanced criminal statutes, victim-protection provisions, and public awareness programs introduced by the Trafficking Victims Protection Act of 2000, as well as sustained dedication to combating human trafficking, the numbers of trafficking investigations and prosecutions have increased dramatically.”³⁹⁰ Using metric-based analysis, the DOJ “in fiscal Years 2001 to 2003, ... secured 78 convictions and guilty pleas, a 50 percent increase over the previous

³⁸⁶ “FBI—Human Trafficking.”

³⁸⁷ United States Attorney-General, *Attorney General’s Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons in Fiscal Year 2005* (Washington, DC: U.S. Department of Justice, 2006), 24, <https://www.justice.gov/archive/ag/annualreports/tr2005/agreporthumantrafficking2005.pdf>.

³⁸⁸ *Ibid.*

³⁸⁹ “Human Trafficking Prosecution Unit (HTPU).”

³⁹⁰ *Ibid.*

three years.”³⁹¹ The HTPU highlights “a 360 percent increase in convictions for fiscal years 2001–2007 as compared to the previous 7-year period.”³⁹² Overall, between “FYs 2001–2007, the [Civil Rights] Division and United States Attorneys’ offices have prosecuted 449 defendants compared to 91 defendants charged in the prior seven fiscal years.”³⁹³ Prosecutions of trafficking cases accelerated, “despite increased pressures on the Department of Justice’s investigative resources in the wake of September 11, 2001.”³⁹⁴

Together, the prosecutorial and investigative efforts of the DOJ continue to combat the exploitation and trafficking of children in the United States.³⁹⁵ Beginning in June 2003, the FBI, the DOJ’s CEOS, and the National Center for Missing and Exploited Children, approached child sex trafficking with a new coordination of efforts known as the Innocence Lost National Initiative.³⁹⁶ The FBI’s Innocence Lost National Initiative focuses on domestic recruitment of children into the sex industry.³⁹⁷ This Initiative is sustained by 66 federal child exploitation task forces along with 33 state and local law enforcement partners,³⁹⁸ and “in FY 2007, this Initiative resulted in 308 arrests, 106 convictions, and 181 recovered children.”³⁹⁹

As demonstrated with the successes of the Innocence Lost Initiative, “the most effective way to investigate human trafficking is through a collaborative, multi-agency approach ... in concert with this concept, FBI investigators participate or lead task forces and working groups in every state within the U.S.”⁴⁰⁰ These FBI human trafficking task

³⁹¹ United States Attorney-General, *Fiscal Year 2003*, 19.

³⁹² “Human Trafficking Prosecution Unit (HTPU).”

³⁹³ United States Attorney-General, *Fiscal Year 2007*, 28.

³⁹⁴ United States Attorney-General, *Fiscal Year 2003*, 18.

³⁹⁵ United States Department of State, *Trafficking in Persons Report: June 2007*, 49.

³⁹⁶ “FBI—Human Sex Trafficking,” accessed March 30, 2016, <https://leb.fbi.gov/2011/march/human-sex-trafficking>.

³⁹⁷ United States Department of State, *Accomplishments Document*, 15.

³⁹⁸ *Ibid.*

³⁹⁹ United States Department of State, *Trafficking in Persons Report: June 2008*, 51.

⁴⁰⁰ “FBI—Human Trafficking.”

forces use an “Enhanced Collaborative Model” to support cooperation.⁴⁰¹ Effectiveness of collaborative human trafficking task forces is best exemplified by Operation Cross Country. After five years of success, “the Innocence Lost Initiative, the Bureau’s Crimes Against Children Unit (CACU) coordinated a national sting called Operation Cross Country to combat domestic sex trafficking in children.”⁴⁰² Nationwide, Operation Cross Country is “conducted over three- to five- day periods, to combat domestic commercial sexual exploitation of children.”⁴⁰³ During the exercise, “over 8,500 law enforcement officers from 414 state, local, and federal law enforcement agencies” unite to interdict active trafficking enterprises.⁴⁰⁴

F. CONCLUSION

The DOJ is one of the main human trafficking prosecutorial departments, which, through interagency and collaborative efforts, approaches human trafficking one prosecution at a time. This fragmentary approach will not force dynamic system change, but plays an essential anti-trafficking role, especially since the DOJ, particularly through the FBI, focuses immense efforts towards the interdiction of the exploitation of children. These efforts are manifested in initiatives, such as Innocence Lost, where the FBI puts the majority of anti-human trafficking efforts. The DOJ has improved its overall anti-trafficking efforts by evolving to understand the importance of integrating state and local law enforcement partners in combating human trafficking in no small part based on similar efforts found in the regional approach used in anti-terror initiatives.

⁴⁰¹ “FBI—Human Trafficking.”

⁴⁰² United States Attorney-General, *Fiscal Year 2009*, 42.

⁴⁰³ United States Department of State, *Accomplishments Document*, 16.

⁴⁰⁴ *Ibid.*

V. DEPARTMENT OF HOMELAND SECURITY

The DHS, led by the Secretary of Homeland Security, includes many directorates, agencies, and services collectively known as components.⁴⁰⁵ Each component has varied resources and responsibilities, all in the service to the DHS and the enforcement of federal law.⁴⁰⁶ Enforcement of the TVPA increases the security of the United States, and therefore, falls to the DHS. This specific mandate was developed through its charter, which influences enforcement of the TVPA.

A. BACKGROUND

The DHS, in accordance with the objectives of the Trafficking Victims Protection Act, combats human trafficking through prevention, protection, and prosecution. The DHS maintains anti-trafficking awareness and training programs “for all DHS personnel who encounter human trafficking within their scope of work.”⁴⁰⁷ The structural diversity of the DHS creates some difficulty in internal procedural conformity and functional accountability. Anti-trafficking training is tailored to individual agencies within the DHS, but also “familiarize[s] them with the roles and responsibilities of their colleagues throughout DHS.”⁴⁰⁸

The Federal Law Enforcement Training Center (FLETC) is one of the components of the DHS. FLETC provides initial, as well as follow-up federal law enforcement and anti-trafficking indoctrination by “conduct[ing] numerous in-person trainings on identifying indicators of human trafficking, case-studies of trafficking cases, and immigration relief options available to trafficked victims.”⁴⁰⁹

⁴⁰⁵ “Operational and Support Components,” accessed July 18, 2016, <https://www.dhs.gov/operational-and-support-components>.

⁴⁰⁶ Ibid.

⁴⁰⁷ “DHS Blue Campaign.”

⁴⁰⁸ Ibid.

⁴⁰⁹ United States Department of State, *Accomplishments Document*, 31.

A component of the DHS, Immigration and Customs Enforcement (ICE), is “the largest investigative agency” and it “enforces a wide range of crimes related to border security, including investigations of human smuggling and human trafficking.”⁴¹⁰ Within ICE, “Homeland Security Investigations (HSI) pursues collaborative investigations with other law enforcement agencies at the international, federal, state, local, county, and tribal levels” effectively combating human trafficking.⁴¹¹ These collaborative partnerships provide ICE the ability to “dismantle the global criminal infrastructure engaged in human smuggling and human trafficking.”⁴¹² Maintaining effective sector-specific coordination, “HSI special agents within domestic and international field offices work[] closely with SI’s Human Smuggling and Trafficking Unit (HSTU), ICE Cyber Crimes Center (C3), HSI’s [Victim Assistance Program], and other units within HSI.”⁴¹³

ICE’s infrastructure-based approach “strip[s] away assets and profit incentive [by] collaborating with U.S. and foreign partners to attack networks worldwide and [by] working in partnerships with nongovernmental organizations to identify, rescue and provide assistance to trafficking victims.”⁴¹⁴ Maintaining a victim centric law enforcement approach, ICE maintains “equal value ... on the identification and rescue of victims [as well as] the prosecution of traffickers.”⁴¹⁵ The DHS focuses on “heavily advertised public awareness campaigns about human trafficking;” these campaigns were developed by the adjacent components of Customs and Border Protection (CBP) and ICE “making potential victims aware that they are in danger, and that the government offers resources to provide them with asylum and other forms of assistance.”⁴¹⁶

⁴¹⁰ “Human Trafficking and Smuggling.”

⁴¹¹ “Collaboration,” accessed March 30, 2016, <https://www.dhs.gov/blue-campaign/collaboration>.

⁴¹² “Human Trafficking and Smuggling.”

⁴¹³ United States Department of State, *Trafficking in Persons Report: Fiscal Year 2013*, 57.

⁴¹⁴ “Human Trafficking and Smuggling.”

⁴¹⁵ Ibid.

⁴¹⁶ “Human Trafficking,” accessed March 30, 2016, <http://www.cbp.gov/border-security/human-trafficking>.

B. AGENCY

The Blue Campaign is Homeland Security’s concerted public awareness effort against human trafficking. The Blue Campaign is named after the color blue because blue is “internationally symbolic of human trafficking awareness.”⁴¹⁷ The Blue Campaign capitalized on previous DHS efforts and “adopted and modified the ‘I Speak’ pocket guide and poster, created by the DHS Office of Civil Rights and Civil Liberties, which, exemplified by Figure 1, is used by DHS personnel and law enforcement to identify the language spoken by people with whom they are interacting.”⁴¹⁸

⁴¹⁷ “Blue Campaign,” accessed July 18, 2016, <https://www.dhs.gov/blue-campaign/about-blue-campaign>.

⁴¹⁸ United States Department of State, *Accomplishments Document*, 34.

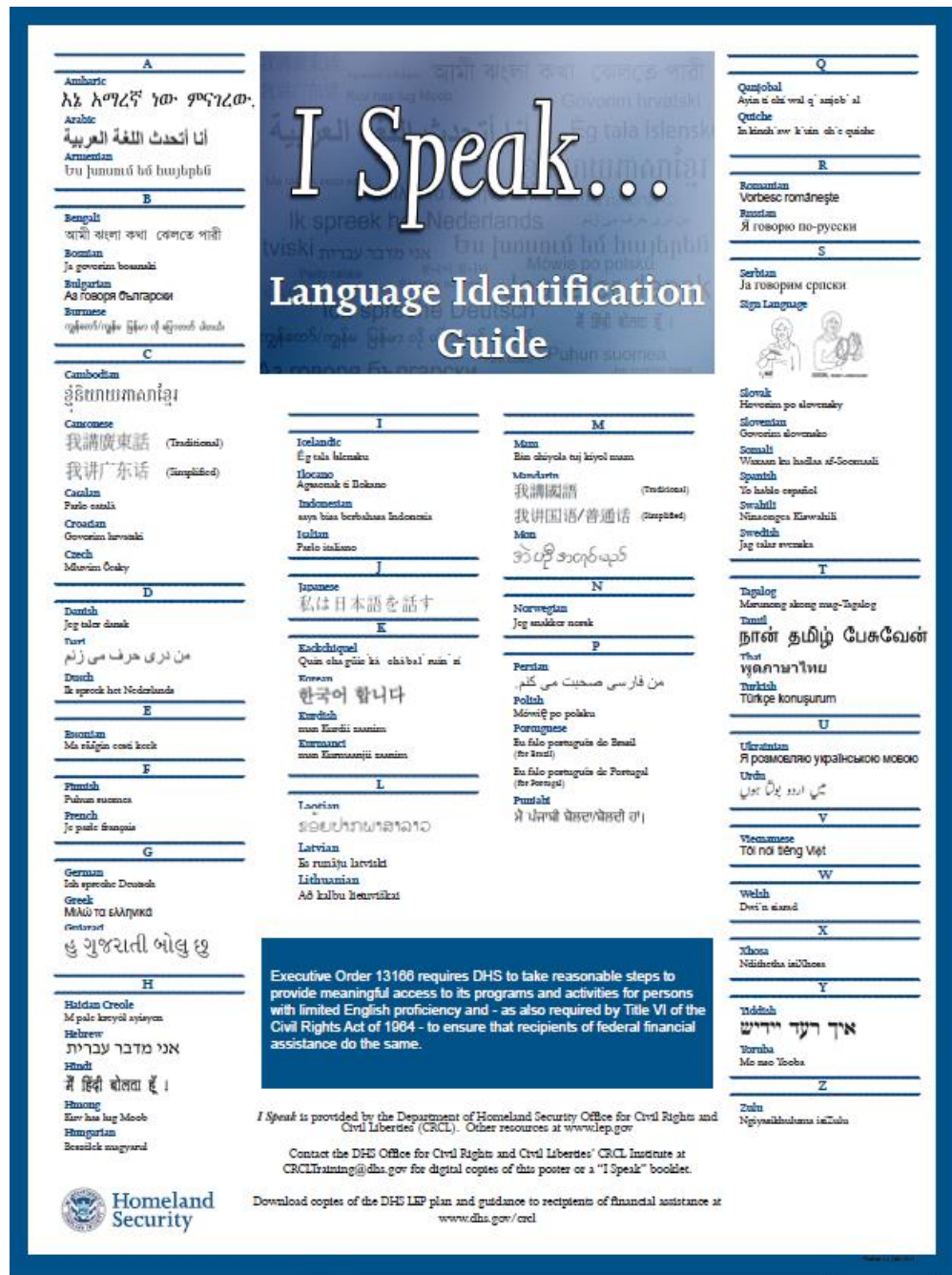


Figure 1. I Speak Language Identification Guide.⁴¹⁹

⁴¹⁹ Source: "crcl-i-speak-poster," accessed July 18, 2016, <https://www.dhs.gov/xlibrary/assets/crcl/crcl-i-speak-poster.pdf>.

In addition, CBP capitalized on a nexus between commercial industry and law enforcement by launching the Blue Lightning Initiative. As a tripartite initiative with the commercial airline industry, the Department of Transportation (DOT), and CBP, Blue Lightning is “a training module and pocket guide that educates airline employees on how to identify human trafficking in airports or during flight.”⁴²⁰ Under the Initiative, airline crew members are effectively trained and are better equipped “to identify potential traffickers and their victims and to report their suspicions to federal law enforcement.”⁴²¹ Once alerted to a possible trafficking situation, law enforcement can scrutinize travel patterns and travel documents; this “real time reporting mechanism gives law enforcement additional time to research and analyze information and coordinate an appropriate, effective response.”⁴²² An even broader outreach to private industry is provided by DHS’s Private Sector Office, which “developed a virtual toolkit of the department’s anti-human trafficking resources for distribution to businesses across the nation ... reach[ing] thousands of employers [by] targeting the lodging, transportation, entertainment, agricultural, manufacturing, and construction industries.”⁴²³ An example of an item in the tool kit is represented in Figure 2.

⁴²⁰ United States Department of State, *Accomplishments Document*, 31.

⁴²¹ “Blue Lightning U.S. Customs and Border Protection,” accessed March 30, 2016, <http://www.cbp.gov/border-security/human-trafficking/blue-lightning>.

⁴²² *Ibid.*

⁴²³ “DHS Blue Campaign.”

What is Human Trafficking?

Human trafficking is modern-day slavery and involves the use of force, fraud, or coercion to obtain some type of labor or commercial sex act. Millions of men, women, and children are trafficked into forced labor situations and into the sex trade worldwide. Many of these victims are lured from their homes with false promises of well-paying jobs; instead, they are forced or coerced into prostitution, domestic servitude, or other types of forced labor. Victims are found in legitimate and illegitimate labor industries, including sweatshops, massage parlors, agricultural fields, restaurants, hotels, and domestic service.

Human trafficking is different from human smuggling. Trafficking is exploitation-based and does not require movement across borders or any type of transportation.

Who are the Victims? Who is at Risk?

Trafficking victims can be any age, race, gender, or nationality. Trafficking victims can be men or women, young or old, American or from abroad, with or without legal status.

Traffickers prey on victims with little or no social safety net. They look for victims who are vulnerable because of their illegal immigration status, limited English proficiency, and those who may be in vulnerable situations due to economic hardship, political instability, natural disasters, or other causes.

The indicators listed are just a few that may alert you to a potential human trafficking situation. No single indicator is necessarily proof of human trafficking. If you suspect that a person may be a victim of human trafficking, please call the Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) Tip-line at 1-866-347-2423. You can also report online at www.ice.gov/tips.

To reach a non-governmental organization for confidential help and information, 24 hours a day, please call the National Human Trafficking Resource Center at 1-888-3737-888.

How do I Identify Human Trafficking?

Human trafficking is often "hidden in plain sight." There are a number of red flags, or indicators, which can help alert you to human trafficking. Recognizing the signs is the first step in identifying victims.

Some Indicators Concerning a Potential Victim Include:

Behavior or Physical State:

- Does the victim act fearful, anxious, depressed, submissive, tense, or nervous/paranoid?
- Does the victim defer to another person to speak for him or her?
- Does the victim show signs of physical and/or sexual abuse, physical restraint, confinement, or torture?
- Has the victim been harmed or deprived of food, water, sleep, medical care, or other life necessities?
- Does the victim have few or no personal possessions?

Social Behavior:

- Can the victim freely contact friends or family?
- Is the victim allowed to socialize or attend religious services?
- Does the victim have freedom of movement?
- Has the victim or family been threatened with harm if the victim attempts to escape?

Work Conditions and Immigration Status:

- Does the victim work excessively long and/or unusual hours?
- Is the victim a juvenile engaged in commercial sex?
- Was the victim recruited for one purpose and forced to engage in some other job?
- Is the victim's salary being garnished to pay off a smuggling fee? (Paying off a smuggling fee alone is not considered trafficking.)
- Has the victim been forced to perform sexual acts?
- Has the victim been threatened with deportation or law enforcement action? Is the victim in possession of identification and travel documents; if not, who has control of the documents?

Minor Victims:

- Is the victim a juvenile engaged in commercial sex?

For more information, please visit:
www.dhs.gov/bluecampaign

Like us on Facebook!
www.facebook.com/bluecampaign

Figure 2. Example of Anti-Human Trafficking Resource Distribution.⁴²⁴

Increasing knowledge of people's vulnerability to trafficking, the DHS "has expanded two public awareness campaigns targeting potential trafficking victims: Hidden

⁴²⁴ Source: "Human Trafficking 101," accessed July 18, 2016, <https://www.dhs.gov/sites/default/files/publications/bc-inf-ht101-blue-campaign-human-trafficking-101.pdf>.

In Plain Sight and No te engañes.”⁴²⁵ Beginning in 2008, “ICE launched a Billboard Campaign in the New York City area entitled *In Plain Sight*.”⁴²⁶ The messaging for *In Plain Sight* is directed at the American public ensuring local awareness and possibilities of intervention, and “has reached fourteen U.S. cities and is available in eight languages.”⁴²⁷ In 2010, Homeland Security’s “CBP launched the public awareness campaign No te engañes (Don’t Be Fooled) in Guatemala, El Salvador, and Mexico.”⁴²⁸ No te engañes messaging, as reflected in Figure 3, is an externally oriented cautionary campaign disseminating risk awareness, and “includes four different [Public Service Announcements] as well as two radio segments.”⁴²⁹

⁴²⁵ “DHS Blue Campaign.”

⁴²⁶ United States Attorney-General, *Attorney General’s Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2008* (Washington, DC: U.S. Department of Justice, 2009), 70, <https://www.justice.gov/archive/ag/annualreports/tr2008/agreporthumantrafficking2008.pdf>.

⁴²⁷ “DHS Blue Campaign.”

⁴²⁸ United States Attorney-General, *Fiscal Year 2010*, 22.

⁴²⁹ “DHS Blue Campaign.”



Figure 3. Example of No Te Engañes Risk Awareness Campaign.⁴³⁰

Providing additional information about risks, regulations, and resources in trafficking prone environments, CBP “has produced informational ‘tear’ cards, ‘shoe’ cards, and posters targeting potential victims of human trafficking. These materials connect victims to crisis support and sustained social services for trafficking victims,” examples of which are exemplified in Figure 4.⁴³¹

⁴³⁰ Source: “Human Trafficking Awareness Posters,” accessed July 18, 2016, https://www.cbp.gov/sites/default/files/assets/hires/print_ads_NTE_PRINT%203.pdf.

⁴³¹ “DHS Blue Campaign.”



Figure 4. Examples of CBP Informational Tear Cards.⁴³²

The DHS, including all its internal components, “uses a victim-centered approach to combat human trafficking, which places equal value on the identification and stabilization of victims and providing immigration relief, as well as the investigation and prosecution of traffickers.”⁴³³ Ensuring nationwide coverage and procedural conformity, “ICE expanded its Victim Assistance Program to ensure that each ICE HSI [Special Agent in Charge] office has at least one full-time Victim Assistance Specialist.”⁴³⁴ These

⁴³² Source: “Tear Cards,” accessed July 18, 2016, <https://www.dhs.gov/sites/default/files/publications/blue-campaign/2014-8-8-human-trafficking-tearcards-final-english.pdf>.

⁴³³ “A Victim-Centered Approach,” accessed March 30, 2016, <https://www.dhs.gov/blue-campaign/victim-centered-approach>.

⁴³⁴ United States Department of State, *Accomplishments Document*, 35.

specialists are ICE's "human trafficking experts" and are "trained to handle human trafficking leads, address urgent victim needs, and serve as designated points of contact for local officers and leads generated through the Law Enforcement Support Center."⁴³⁵ Providing immediate support and "meet[ing] the complicated needs of human trafficking victims, the ICE HSI Victim Assistance Program (VAP) has 26 full-time victim assistance specialists in 24 of its local investigative offices."⁴³⁶ Customs Enforcement's Victim Assistance Program "operates a Federal Crime Victim Assistance Fund ... [and] is available to assist Special Agents in Charge ... [providing] emergency services for victims of crime, including trafficking and related crimes."⁴³⁷

Along with providing for immediate needs of victims, the DHS offers various forms of immigration relief. Prioritizing the needs of foreign victims, "DHS provides three types of immigration relief in order to encourage victims to come forward and work with law enforcement: Continued Presence (CP), T Visas, and U Visas."⁴³⁸ CP allows victims to "remain temporarily in the United States if federal law enforcement determines that they are potential witnesses to trafficking and submits a request on their behalf to the Department of Homeland Security."⁴³⁹ Trafficking specific visas, known as T visas, provide immigration relief "to victims who have complied with reasonable requests for assistance in the investigation or prosecution of acts of trafficking."⁴⁴⁰ Less prolific than initially expected, T visa issuances rarely hit the yearly federal maximum; in 2004, "the DHS's Vermont Service Center received 520 applications for T non-immigrant status, granted 136 and denied 292."⁴⁴¹ U visas are offered as immigration relief for prosecution assistance in non-specific criminal investigations.⁴⁴²

⁴³⁵ "DHS Blue Campaign."

⁴³⁶ United States Department of State, *Trafficking in Persons Report: Fiscal Year 2013*, 19.

⁴³⁷ United States Attorney-General, *Fiscal Year 2005*, 8.

⁴³⁸ "Immigration Assistance," accessed March 30, 2016, <https://www.dhs.gov/blue-campaign/immigration-assistance>.

⁴³⁹ United States Attorney-General, *Fiscal Year 2003*, 15.

⁴⁴⁰ *Ibid.*

⁴⁴¹ *Ibid.*

⁴⁴² United States Attorney-General, *Fiscal Year 2009*, 39.

C. LABOR

The DHS, spearheaded by ICE, maintains a focus on labor trafficking through a concentration on undocumented foreign workers. The DHS approaches labor trafficking in coordination with inter-departmental experts through “collaboration with DOJ and DOL” and through ACTeams.⁴⁴³

D. THE SEX INDUSTRY

A unique aspect of the sex industry of particular concern for the DHS is public health. Foreign trafficking victims “have not received pre-screening for medical concerns” and may be a threat to public health.⁴⁴⁴ The U.S. government relates that “the potential impact on public health (especially regarding tuberculosis and hepatitis B) is significant,” since “trafficking victims have had little health care and few, if any, inoculations.”⁴⁴⁵ ICE “recogniz[ed] the enormous implications for the public health relating to trafficking in persons situations [and] ... convened in October 2002 a multi-agency work group ... to address the public health aspects of trafficking in persons.”⁴⁴⁶

E. CRIME CONTROL

ICE “agents follow the strategic priorities of border security and immigration enforcement. These strategic priorities allow for a comprehensive law enforcement approach to address the scourge of human trafficking—both domestically and internationally.”⁴⁴⁷

ICE’s main efforts focus on the “disrupt[ion] and dismantl[ing of] domestic and international criminal organizations that engage in human trafficking by utilizing all ICE authorities and resources in a cohesive multifaceted, global enforcement approach.”⁴⁴⁸

⁴⁴³ United States Department of State, *Accomplishments Document*, 33.

⁴⁴⁴ United States Attorney-General, *Fiscal Year 2003*, 7.

⁴⁴⁵ *Ibid.*

⁴⁴⁶ *Ibid.*

⁴⁴⁷ *Ibid.*, 17.

⁴⁴⁸ United States Attorney-General, *Fiscal Year 2006*, 14.

ICE's "ability to arrest and hold traffickers for immigration violations is often critical to an investigation,"⁴⁴⁹ and its deportation activities physically remove many traffickers from the United States.⁴⁵⁰

Approaching human trafficking from two sides, both transportation and exploitation, ICE "target[ed] transportation companies involved in the illicit movement of recently smuggled aliens in the Phoenix and Tucson Arizona area, [in an effort named] 'Operation In Plain Sight,'"⁴⁵¹ and conducted Operation Predator, which is an international and domestic ICE crime control effort directed against child predators.⁴⁵² Launched in 2003, "Operation Predator is ICE's comprehensive initiative to safeguard children from foreign national sex offenders, international sex tourists, Internet child pornographers, and human traffickers."⁴⁵³ By 2007, Operation Predator "reached 10,514 arrests of child exploiters, over 5,872 of which have been removed from the United States."⁴⁵⁴ Additionally, Operation Predator utilizes crowd sourcing with a downloadable application to identify suspected child predators, such as those depicted in Figure 5.⁴⁵⁵ The application allows users to receive and share alerts regarding known predators, and also includes an easy to use reporting function to alert ICE about these and other predators in users' neighborhoods.⁴⁵⁶

⁴⁴⁹ United States Attorney-General, *Fiscal Year 2007*, 23.

⁴⁵⁰ United States Attorney-General, *Fiscal Year 2006*, 14.

⁴⁵¹ "Operation in Plain Sight—Targeting Arizona Smuggling Organizations," accessed April 21, 2016, <https://www.ice.gov/factsheets/plain-sight>.

⁴⁵² "Cracking Down on Child Sex Tourism," accessed April 21, 2016, <https://www.dhs.gov/blog/2009/08/31/cracking-down-child-sex-tourism>.

⁴⁵³ United States Attorney-General, *Fiscal Year 2005*, 14.


⁴⁵⁴ United States Attorney-General, *Fiscal Year 2007*, 24.

⁴⁵⁵ "Operation Predator App," accessed July 18, 2016, <https://www.ice.gov/predator/smartphone-app>.

⁴⁵⁶ *Ibid.*

WANTED

For lewd and lascivious acts and unlawful sexual intercourse with a minor



Name: Eladio G. Ramirez Tizoc
Age: 22
DOB: August 30, 1991
Sex: Male
Height: 5'7"
Weight: 170 lbs.
Hair: Brown
Eyes: Brown

Last Known Residence: Modesto, Calif;
 Suspect is believed to be hiding in Mexico.

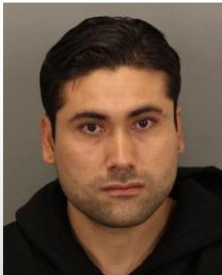
Details: Eladio G. Ramirez Tizoc, 22, of Mexico and Modesto, Calif., was arrested Dec. 4 on two counts of sodomy, two counts of lewd and lascivious behavior, penetration with a foreign object and unlawful sexual intercourse with a minor.

Tizoc allegedly met the minor victim when he started following and then commenting on the girl's social media postings when she was 13 years old, and eventually arranged to meet up with her.

HSI Mexico became involved in the case when special agents were provided credible information that he may have fled to Mexico to escape prosecution.

WANTED

For possession and distribution of child pornography




Name: Jose Alberto Centurion-Cruz aka Jose Alberto Cruz
Age: 30
Height: 5'11"
Weight: 200 lbs
Hair: Brown
Eyes: Brown

Last known residence: Sunnyvale, Calif.


Details: Jose Alberto Centurion-Cruz was federally indicted in January 2013 for possessing and distributing child pornography. A forensic analysis of digital media seized from Centurion-Cruz identified more than 100 videos of child pornography.

Centurion-Cruz was scheduled to plead guilty March 17 to possession of child pornography. He failed to appear for his court hearing and it was subsequently determined he had absconded from his pre-trial release conditions in order to evade prosecution. On March 18, a federal bench warrant was issued, with full extradition, for Centurion-Cruz, citing his failure to appear in court.



U.S. Immigration and Customs Enforcement

If you have any information, call:
1-866-347-2423
 or visit:
www.ice.gov/tips




U.S. Immigration and Customs Enforcement

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1-866-347-2423
 or visit:
www.ice.gov/tips

UNKNOWN SUSPECT

Law enforcement officials are seeking information which will lead to the identification of this unknown suspect. It is alleged that he may be involved with child exploitation and the sexual abuse of a minor.


Name: John Doe
Age: Late 40's to early 50's
Race: Caucasian
Hair: Brown hair and a full beard
Eyes: Blue eyes, wears glasses
Sex: Male



This "John Doe" is an unknown suspect and is believed to be living somewhere in the United States or Canada, but he could be anywhere in the world. Both he and the child are seen in room with wood paneled walls with framed photos, a black computer, desk with sewing machine and brown patterned curtains.

WANTED

For possession of and transportation of child pornography






Name: Erich George Eckart
Age: 66
Sex: Male
Height: 5'10"
Weight: 185 lbs
Hair color: Blonde
Eye color: Blue

Last known residence: Jacksonville, Fla.
Occupation: Inventor and business owner in thermal and solar technology

Other: Eckart was born in Germany, resided in the United States and conducted business in Southeast Asia. He is suspected to be living abroad, possibly in Southeast Asia.


Details: On October 5, 2007, Erich George Eckart was indicted by a grand jury in the Eastern District of Michigan for transportation of child pornography and possession of child pornography.



U.S. Immigration and Customs Enforcement

If you have any information, call:
1-866-347-2423
 or visit:
www.ice.gov/tips



U.S. Immigration and Customs Enforcement

If you have any information, call:
1-866-347-2423
 or visit:
www.ice.gov/tips

Figure 5. Examples of Four Operation Predator App Suspects.⁴⁵⁷

⁴⁵⁷ Source: "Suspect Alerts," accessed August 8, 2016, <https://www.ice.gov/predator/suspect-alerts#wcm-survey-target-id>.

F. CONCLUSION

The DHS has been the best prepared and most focused in the execution of its specific anti-trafficking mandate in the post-9/11 environment. The DHS has been effectively supported by a national prioritization of externalized threats and has effectively maintained focus by countering external and international aspects of human trafficking. Reflecting the understanding of a dual mandate of countering human smuggling and human trafficking, ICE explains the distinction, “Human trafficking and human smuggling are distinct criminal activities, and the terms are not interchangeable. Human trafficking centers on exploitation human smuggling centers on transportation.”⁴⁵⁸ The DHS, primarily through ICE and CBP, has focused on the prosecution or removal of foreign perpetrators, all the while maintaining appropriate considerations and sensitivities for the needs of victims.

⁴⁵⁸ “Human Trafficking and Smuggling,” accessed April 21, 2016, <https://www.ice.gov/factsheets/human-trafficking>.

VI. DEPARTMENT OF HEALTH AND HUMAN SERVICES

As directed by the Trafficking Victims Protection Act, the HHS “is designated as the agency responsible for helping victims of human trafficking become eligible to receive benefits and services so they may rebuild their lives safely in the United States.”⁴⁵⁹ When foreign-born victims of human trafficking are identified, the HHS provides government “certification allow[ing] victims to receive federally funded benefits and services to the same extent as refugees.”⁴⁶⁰ The HHS established its footing as an important factor in the fight against human trafficking, and continues to accelerate its identification and certification of victims of trafficking.⁴⁶¹

A. BACKGROUND

In the spring of 2004, in support of human trafficking public awareness, the HHS commissioned the Rescue and Restore Victims of Human Trafficking campaign “to increase the number of trafficking victims identified.”⁴⁶² The campaign’s outreach methods were mostly visual, as depicted in Figure 6.

⁴⁵⁹ “Rescue & Restore Victims of Human Trafficking,” last modified October 29, 2015, <http://www.acf.hhs.gov/programs/endtrafficking/resource/about-rescue-restore>.

⁴⁶⁰ “Federal Government Efforts to Combat Human Trafficking,” last modified December 3, 2015, <http://www.acf.hhs.gov/programs/endtrafficking/resource/federal-government-efforts-to-combat-human-trafficking>.

⁴⁶¹ United States Department of State, *Trafficking in Persons Report: June 2005*, 241.

⁴⁶² *Ibid.*

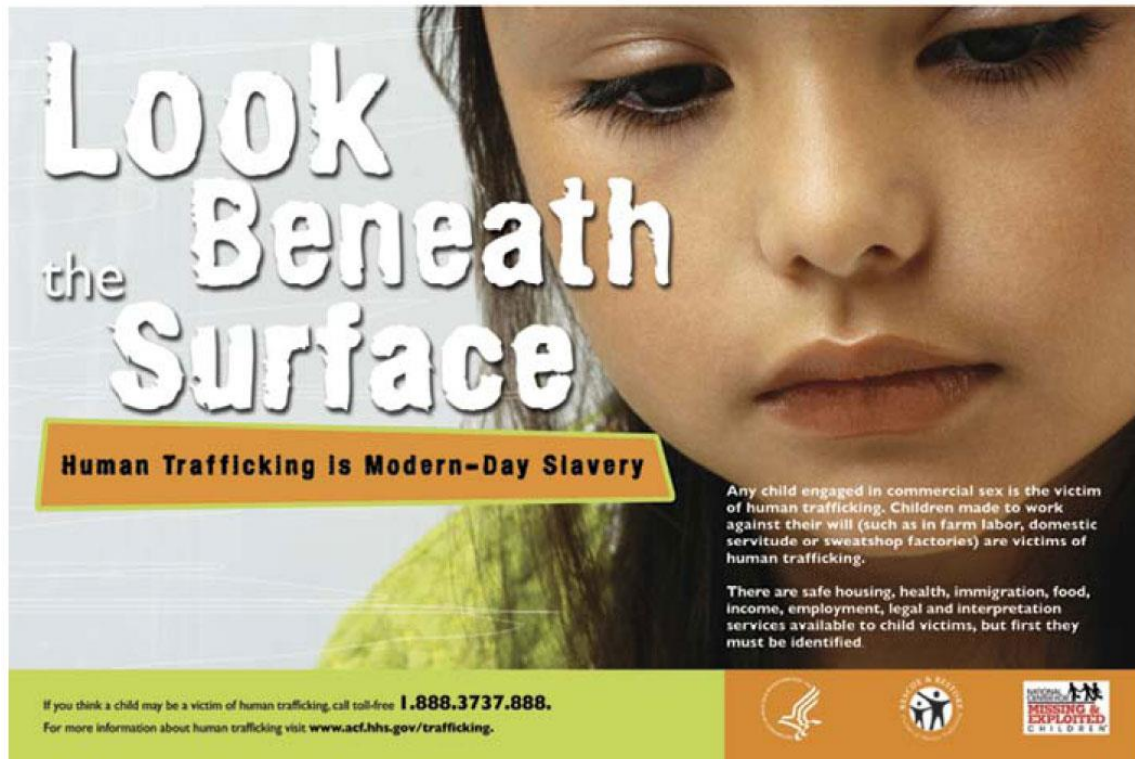


Figure 6. Example of HHS Human Trafficking Awareness Campaign Poster.⁴⁶³

Once identified and processed by the HHS, trafficking “victims can access benefits and services including food, health care, and employment assistance” previously unavailable to foreign-born victims.⁴⁶⁴ Foreign-born victims of human trafficking who become certified by the HHS additionally are eligible to “obtain access to services that provide English language instruction and skills training for job placement.”⁴⁶⁵ The most recent TIP report holds HHS certifications at 749 for fiscal year 2014 with 219 of the certifications being assigned to children under 18 years old.⁴⁶⁶

⁴⁶³ Source: “Office of Refugee Resettlement,” accessed July 18, 2016, <http://www.acf.hhs.gov/programs/orr/rescue-campaign>.

⁴⁶⁴ “Fact Sheet: Sex Trafficking (English),” accessed March 30, 2016, <http://www.acf.hhs.gov/programs/endtrafficking/resource/fact-sheet-sex-trafficking-english>.

⁴⁶⁵ Ibid.

⁴⁶⁶ United States Department of State, *Trafficking in Persons Report: July 2015*, 354.

B. AGENCY

Most of HHS's anti-trafficking efforts are through the Office of Refugee Resettlement (ORR), which has prioritized human trafficking in its daily refugee administration processes. The HHS "provides certification and eligibility letters for victims that allow them to access federally funded or administered benefits and services comparable to the assistance provided to refugees."⁴⁶⁷ The ORR's "goal is to help refugees attain self-sufficiency within four month of date of eligibility without accessing public assistance" by providing services and assistance with the help of NGOs; this support structure is easily applied to foreign victims of trafficking.⁴⁶⁸ Highlighted by the 2013 annual meeting of the President's Interagency Task Force (PITF), the ORR "awarded \$3 million for second-year continuation grants to 11 organizations for the Rescue and Restore Victims of Human Trafficking Regional Program."⁴⁶⁹ The ORR has issued hundreds of letters of certification to trafficked individuals including many children, thereby ensuring access to benefits.⁴⁷⁰ Aiding in victim identification, the thousands of foreign-born unaccompanied children who are screened for refugee status are carefully examined for trafficking indicators by the ORR Division of Children's Services.⁴⁷¹

Emphasizing public and private partnership models, government cooperation with specialized human trafficking non-governmental organizations allows wider opportunities to address difficult to reach populations. Many foreign-born victims of human trafficking "are reluctant to come forward for fear of being deported;" in these cases, familiar and trusted NGOs and non-profits are effective assets.⁴⁷² The HHS's "goal of the Rescue & Restore campaign is to increase the number of trafficking victims

⁴⁶⁷ United States Attorney-General, *Fiscal Year 2003*, 8.

⁴⁶⁸ *Ibid.*, 10.

⁴⁶⁹ United States Department of State, *Accomplishments Document*, 26.

⁴⁷⁰ *Ibid.*, 25.

⁴⁷¹ *Ibid.*

⁴⁷² "Fact Sheet: Sex Trafficking (English)."

identified by enhancing awareness.”⁴⁷³ The HHS accomplishes this goal by providing information about services available, thereby helping “communities identify and serve more victims of trafficking so that every individual forced, coerced, or fraudulently induced into exploitative work will have the courage and support to come forward.”⁴⁷⁴

The most influential non-profit NGO supported by HHS, through the Rescue & Restore campaign, is the National Human Trafficking Resource Center (NHTRC), which was specifically designed to interface directly with victims.⁴⁷⁵ The NHTRC is operated by Polaris Project, “a leading non-governmental organization in the global fight against human trafficking and modern-day slavery.”⁴⁷⁶ The HHS funds the NHTRC through ORR, which, in 2013, “awarded \$799,333 for a third-year continuation grant to Polaris Project.”⁴⁷⁷ The NHTRC, “under the management of the Polaris Project, ... holds HHS’s Training and Technical Assistance program cooperative agreement,” which solidifies its position as the primary government funded NGO in the battle against human trafficking.⁴⁷⁸

The NHTRC “helps build and institutionalize an effective and coordinated response to human trafficking and increases awareness of this crime across the United States.”⁴⁷⁹ The NHTRC “regional specialists have built relationships state by state and community by community in order to provide a safe crisis response and access to services for all survivor populations, anywhere in the United States.”⁴⁸⁰ Increasing outreach and supporting agency, “HHS hosted a meeting of representatives from NSN” to build and

⁴⁷³ United States Attorney-General, *Fiscal Year 2004*, 47.

⁴⁷⁴ United States Attorney-General, *Fiscal Year 2006*, 36.

⁴⁷⁵ “Rescue & Restore Victims of Human Trafficking.”

⁴⁷⁶ Polaris Project, *Human Trafficking Trends in the US: National Human Trafficking Resource Center (2007–2012)* (Washington, DC: National Human Trafficking Resource Center, 2013), 2, <http://www.traffickingresourcecenter.org/sites/default/files/Human%20Trafficking%20Trends%20in%20the%20US%2007-2012.pdf>.

⁴⁷⁷ United States Department of State, *Accomplishments Document*, 26.

⁴⁷⁸ United States Attorney-General, *Fiscal Year 2008*, 22.

⁴⁷⁹ Polaris Project, *Human Trafficking Trends*, 4.

⁴⁸⁰ *Ibid.*

maintain strong connections with survivors of trafficking.⁴⁸¹ The HHS has institutionalized the recognition of the agency of trafficking survivors by maintaining a policy that “requires the [NHTRC] to have human trafficking survivors on the NHTRC’s advisory board to provide ongoing guidance to the NHTRC on design, implementation, and evaluation of training and technical assistance activities.”⁴⁸²

The NHTRC operates a 24-hour and seven-day-a-week hotline as a resource for all parties interested in combating human trafficking, especially victims. The NHTRC compiled its data into a detailed report that spans a five-year period and “provides a revealing snapshot of human trafficking in the U.S., and highlights the most common forms of human trafficking that were reported to the NHTRC.”⁴⁸³ As a national human trafficking hub, the NHTRC reveals, “Every case received ... is assessed on the level of detail provided and the strength of various human trafficking indicators,” and “in our first five years of operation, we received reports of 9,298 unique cases of human trafficking.”⁴⁸⁴ NHTRC effectiveness is reflected in the “extensive follow-up process [employed] to track case outcomes, evaluate ... responses,” and promote quality assurance.⁴⁸⁵

The NHTRC statistical information provides the most accurate and clear picture of human trafficking in the United States. The NHTRC carefully segregates each purported case of human trafficking, screens them for appropriate trafficking indicators dictated by the TVPA, and creates operationally significant statistical information for all types of human trafficking, both labor and sex trafficking including both foreign-born and homegrown.⁴⁸⁶

⁴⁸¹ United States Attorney-General, *Fiscal Year 2013*, 12.

⁴⁸² *Ibid.*

⁴⁸³ Polaris Project, *Human Trafficking Trends*, 6.

⁴⁸⁴ *Ibid.*, 4.

⁴⁸⁵ *Ibid.*, 5.

⁴⁸⁶ Polaris Project, *Human Trafficking Trends*.

C. LABOR

Instances of labor trafficking recognized and revealed by the NHTRC include “several forms of exploitive practices ... including bonded labor, forced labor, and child labor.”⁴⁸⁷ Most instances of labor trafficking documented by the NHTRC were “in domestic work, with significant concentrations appearing in the Northeast, as well as in southern Florida and southern California.”⁴⁸⁸ As expected, most instances of labor trafficking were “typically reported in industries with demand for cheap labor and/or a lack of rigorous monitoring.”⁴⁸⁹ Those responsible for the exploitation “included recruiters, contractors, and employers, [whom] used violence, threats, lies, and other forms of coercion to force people to work against their will.”⁴⁹⁰

The NHTRC’s statistical breakdown of labor trafficking in the United States finds that much of this illegal activity is “among the nation’s migrant and seasonal farmworkers, including men, women, families, and children who harvest crops and raise animals.”⁴⁹¹ These trafficked laborers included “undocumented immigrants, and foreign nationals with temporary work visas,” as well as many individuals with U.S. citizenship or legal permanent residency status.⁴⁹²

With emphasis on exploitative yet non-trafficking labor conditions, “the most frequently cited temporary work visas were the J-1 visa, a cultural exchange visa for work and study in the U.S., the H-2A visa designed for temporary agricultural work in the U.S., and the H-2B visa for temporary or seasonal labor in the U.S.”⁴⁹³ With emphasis on illegal labor trafficking, “the most frequently referenced visas were the A-3

⁴⁸⁷ “Fact Sheet: Labor Trafficking (English),” United States Department of Health and Human Services, accessed March 30, 2016, <http://www.acf.hhs.gov/programs/endtrafficking/resource/fact-sheet-labor-trafficking-english>.

⁴⁸⁸ Polaris Project, *Human Trafficking Trends*, 5.

⁴⁸⁹ *Ibid.*, 21.

⁴⁹⁰ *Ibid.*

⁴⁹¹ *Ibid.*, 24.

⁴⁹² *Ibid.*

⁴⁹³ *Ibid.*, 28.

or G-5 visas which are given to domestic staff of foreign diplomats and of employees of international organizations.”⁴⁹⁴ Those on A-3 and G-5 visas primarily perform domestic work, and “domestic workers [as a community] are among the most isolated and vulnerable workers across the country and lack access to necessary labor protections.”⁴⁹⁵

The NHTRC maintains efforts to combat human trafficking, but is not chartered to alleviate all forms of exploitative labor practices. NHTRC trafficking “figure[s] do[] not include the large number of cases referencing exploitative practices in the agricultural industry which did not contain sufficient trafficking indicators.”⁴⁹⁶ The NHTRC relates, “Some of the most heart-breaking calls are those from victims of labor exploitation whose human rights are being violated, but we have very few resources to help them.”⁴⁹⁷ Additional limitations to the NHTRC’s ability to provide assistance are due to victim reporting deterrents including “threats from their traffickers, lack of access to phones, and imposed shame.”⁴⁹⁸

D. THE SEX INDUSTRY

Predictably, human trafficking cases reported to the NHTRC hotline mirror regional and local understandings and perceptions of human trafficking.⁴⁹⁹ Sensationalism, attention, and extra consideration provided to situations involving sex trafficking by various government and media sources create increased likelihood of sex trafficking cases being reported.⁵⁰⁰ The NHTRC reminds readers that “one should not conclude ... that sex trafficking is therefore more prevalent in the U.S. than labor trafficking.”⁵⁰¹ With respect to sex trafficking, the findings in the report showed that

⁴⁹⁴ Polaris Project, *Human Trafficking Trends*, 28.

⁴⁹⁵ *Ibid.*, 22.

⁴⁹⁶ *Ibid.*, 24.

⁴⁹⁷ *Ibid.*, 27.

⁴⁹⁸ *Ibid.*, 6.

⁴⁹⁹ *Ibid.*, 21.

⁵⁰⁰ *Ibid.*

⁵⁰¹ *Ibid.*

“pimp-controlled sex trafficking was the most commonly referenced form of sex trafficking, occurring in places like hotels and motels, streets, and truck stops, and was often facilitated online.”⁵⁰²

E. CRIME CONTROL

Most importantly, the NHTRC does not just compile accurate human trafficking data, but provides actual human trafficking relief options to victims: “Since 2007, the NHTRC has provided victims of human trafficking with more than 11,000 referrals to a diverse array of services, including case management, legal services, emergency shelter, mental health services,” and immediate assistance from law enforcement when required.⁵⁰³

F. CONCLUSION

Emphasizing elements of protection and prevention, the HHS, through its NGO partnerships, provides the community-level victim services desperately needed by all victims of trafficking. Possibly influenced by post-9/11 securitization efforts, HHS certification issuances to foreign victims steeply declined in the year immediately following the attacks of September 11, 2001, but were followed by a rapid recovery in the numbers of issuances recorded in 2003, 2004, and 2005.⁵⁰⁴ The one-year drop in issuances does not demonstrate a sufficient pattern of causality with respect to the HHS’s approach to human trafficking in the post-9/11 environment. Regardless of a one-year reduction in certification issuance, the HHS has been innovative in its approach to human trafficking through a focus on delegation of authorities to NGOs, thereby providing the best access to victim assistance and methods of community outreach.

⁵⁰² Polaris Project, *Human Trafficking Trends*, 5.

⁵⁰³ *Ibid.*

⁵⁰⁴ United States Attorney-General, *Fiscal Year 2007*, 4.

VII. DEPARTMENT OF LABOR

The DOL’s mission is to “foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights.”⁵⁰⁵ Domestically, the anti-labor trafficking front is led by Labor’s Wage and Hour Division (WHD) and Employment and Training Administration (ETA), and internationally anti-labor trafficking efforts are led by Labor’s Bureau of International Labor Affairs (ILAB).⁵⁰⁶

A. BACKGROUND

The ILO, established in 1919, “estimates that there are 215 million children in child labor worldwide, 155 million of them in hazardous forms of work, ... [and] that 21 million people are in forced labor.”⁵⁰⁷ Focusing specifically on the needs of children, ILO Convention 182 on the Worst Forms of Child Labor compels its international signatories “as a matter of urgency, to eradicate the use of children under 18 years of age in all forms of slavery, commercial sexual exploitation, illicit activities, and hazardous work that is likely to harm their health, safety or morals.”⁵⁰⁸

B. AGENCY

The United States is a supporter of the ILO and, through the DOL, supports the ILO’s programs combating child labor. ILO programs “rescue children from trafficking and exploitive work situations and provide them with rehabilitation services and educational opportunities in addition to undertaking prevention campaigns.”⁵⁰⁹

⁵⁰⁵ “Our Mission,” accessed July 19, 2016, <https://www.dol.gov/general/aboutdol/mission>.

⁵⁰⁶ “Agencies and Programs,” accessed July 19, 2016, <https://www.dol.gov/general/dol-agencies>.

⁵⁰⁷ “ILAB—Office of Child Labor, Forced Labor, and Human Trafficking (OCFT),” accessed March 30, 2016, <http://www.dol.gov/ilab/child-forced-labor/>.

⁵⁰⁸ “Child Labor—Bureau of International Labor Affairs,” accessed March 30, 2016, <http://www.dol.gov/ilab/issues/child-labor/>.

⁵⁰⁹ United States Department of State, *Trafficking in Persons Report: June 2003*, 171.

Domestically, the DOL's Employment and Training Administration "provides job training grants to states and localities, which may be used to assist victims of severe forms of trafficking;" "these grants provide job search assistance, career counseling, occupational skills training, and supportive services to eligible participants."⁵¹⁰

The DOL's Employment and Training Administration maintains a "network of approximately 2,700 American Job Centers, and its Job Corps Program continue[s] to offer employment and training services to victims of severe forms of trafficking, as required under the TVPA."⁵¹¹ The DOL's American Job Centers deliver "programs, such as job-search, job-placement assistance and job-counseling services, as well as educational and training services and referrals to supportive services, such as transportation, childcare and housing" to foreign certified victims of trafficking.⁵¹²

C. LABOR

Actively enforcing foreign worker visa programs, the Wage and Hour Division focuses on worker protection because as a community, temporary foreign workers, especially under H-2A/B visas, are "at particular risk for trafficking."⁵¹³ The Office of the Inspector General (OIG), with a focus on enforcing Foreign Labor Certification (FLC) program regulations, "investigates fraud and abuse ... as well as non-traditional organized crime threats that may jeopardize the integrity of these ... programs."⁵¹⁴ The DOL "continues to increase its emphasis on compliance with labor standards laws, such as the Fair Labor Standards Act and Migrant and Seasonal Agricultural Worker Protection Act, in low wage industries."⁵¹⁵

The ILAB, supporting its mandate to support the ethical expansion of the opportunities of globalization, "works to combat forced labor around the world in a

⁵¹⁰ United States Department of State, *Trafficking in Persons Report: June 2005*, 247.

⁵¹¹ United States Department of State, *Accomplishments Document*, 25.

⁵¹² "Federal Government Efforts to Combat Human Trafficking."

⁵¹³ United States Department of State, *Accomplishments Document*, 22.

⁵¹⁴ *Ibid.*

⁵¹⁵ United States Attorney-General, *Fiscal Year 2004*, 17.

number of ways.”⁵¹⁶ The ILAB “funds projects to combat exploitative child labor, including child trafficking,”⁵¹⁷ “produce[s] and fund[s] research reports,” “fund[s] projects in foreign countries to address forced labor,” and “develop[s] U.S. government policy positions on forced labor issues.”⁵¹⁸ ILAB personnel combat child labor trafficking, by “working directly with children and families to provide education or financial assistance, [and by] work[ing] with countries at the national, district and community levels to strengthen systems and services required to address child labor.”⁵¹⁹ The ILAB “projects have trained labor inspectors and law enforcement officials on child labor law enforcement, ... [and] have also developed community-based child labor monitoring systems in the supply chains of key sectors.”⁵²⁰

Although forced labor in the United States is not as institutionalized in agriculture, industry, and mining as in many parts of the world, forced labor and child labor still have impacts inside the United States. The importation of the products of illegal labor, which the DOL is trying to interdict, is persistent. In accordance with the TVPA, the ILAB develops and distributes a List of Goods Produced by Child Labor or Forced Labor (List).⁵²¹ As directed by law, as amended, the List excludes analysis of systemic forced labor and child labor in the United States.⁵²² The List is formulated under specific methodology. International child and forced labor is accounted for only in the “agricultural, manufacturing, and mining/quarrying sectors, as well as pornography,” and specifically, does not “include the service sector.”⁵²³ The List estimates that “\$150

⁵¹⁶ “ILAB—Combating Forced Labor,” accessed April 21, 2016, <http://www.dol.gov/ilab/issues/forced-labor/>.

⁵¹⁷ “ILAB—Combating Human Trafficking,” accessed April 21, 2016, <http://www.dol.gov/ilab/issues/trafficking/>.

⁵¹⁸ “ILAB—Combating Forced Labor.”

⁵¹⁹ “Child Labor—Bureau of International Labor Affairs.”

⁵²⁰ *Ibid.*

⁵²¹ “ILAB—Combating Human Trafficking.”

⁵²² United States Bureau of International Labor Affairs, *List of Goods Produced by Child Labor or Forced Labor: Required by the Trafficking Victims Protection Reauthorization Act of 2005* (Washington, DC: U.S. Department of Labor, Bureau of International Labor Affairs, 2014), 18, https://www.dol.gov/ilab/reports/pdf/TVPRA_Report2014.pdf.

⁵²³ *Ibid.*

billion per year in illegal profits through the use of forced labor” is illicitly reaped.⁵²⁴ The List is DOL’s non-punitive source of information relating to labor trafficking, and its goal is to change the international communities’ perspectives on illegal labor practices and reduce the quantity of goods illegally produced.⁵²⁵

Built as an incentive for change, the List is designed to be viewed by all and to “serve as a catalyst for more strategic and focused coordination and collaboration” against labor trafficking.⁵²⁶ Specifically, the List influences industry and markets as it incentivizes companies to be cognizant of forced labor and to “carry[] out risk[] assessment[s] and due diligence on labor rights in their supply chains.”⁵²⁷ The List supports holistic approaches to child and forced labor incentivizing governments to “provide basic social services, such as education, as well as social protections for individuals and households,” with an ultimate objective to encourage governments to “enact policies that promote the development of decent work for adults and stable livelihoods for entire families, so parents do not choose work over education for their children.”⁵²⁸

In parallel with the List and “pursuant to a TVPA mandate,” the PITF champions ILAB’s online platform, Reducing Child Labor and Forced Labor: A Toolkit for Responsible Business, as a “free, [and] easy-to-use toolkit [that] can help businesses combat child labor and forced labor in their global supply chains.”⁵²⁹ This “social compliance system” was created in fulfillment of the ILAB’s overall mission, “to use all available international channels to improve working conditions, raise living standards, protect workers’ ability to exercise their rights, and address the workplace exploitation of children and other vulnerable populations.”⁵³⁰ ILAB efforts incentivize private industry

⁵²⁴ United States Bureau of International Labor Affairs, *List of Goods*, 1.

⁵²⁵ *Ibid.*, vi.

⁵²⁶ *Ibid.*, 1.

⁵²⁷ *Ibid.*

⁵²⁸ *Ibid.*, 8.

⁵²⁹ United States Department of State, *Accomplishments Document*, 25.

⁵³⁰ “ILAB—Office of Child Labor, Forced Labor, and Human Trafficking (OCFT).”

to “implement social compliance systems,” as depicted in Figure 7, “to ensure they are not directly or indirectly causing or contributing to labor abuses in their supply chains.”⁵³¹ The DOL’s efforts ensure that “globalization provides benefits and opportunities for workers everywhere, rather than triggering a ‘race to the bottom.’”⁵³²



Figure 7. Reducing Child Labor and Forced Labor: A Toolkit for Responsible Business.⁵³³

⁵³¹ United States Bureau of International Labor Affairs, *List of Goods*, 8.

⁵³² Hilda J. Solis, “Remarks at the 2010 DOJ National Conference on Human Trafficking, The TVPA Decade: Progress and Promise,” United States Department of Labor, last modified May 3, 2010, http://www.dol.gov/_sec/media/speeches/20100503_Trafficking.htm.

⁵³³ Source: “Reducing Child Labor and Forced Labor Toolkit,” accessed July 19, 2016, <https://www.dol.gov/ilab/child-forced-labor/index.htm>.

The ILAB List reveals the effectiveness of DOL’s efforts, and demonstrates how incentives change paradigms, thereby reducing forced labor and child labor. In 2009, the first time the List was published, Kazakhstan was spotlighted as a center of forced labor and child labor practices in the tobacco industry.⁵³⁴ The report explains that the multinational tobacco conglomerate, Philip Morris, took the initiative to change the dynamics of tobacco labor practices in Kazakhstan. Philip Morris developed an Agricultural Labor Practices program that implemented comprehensive monitoring.⁵³⁵ Philip Morris was “the sole buyer of tobacco in Kazakhstan,” and after the monitoring program was initiated, “the size of the tobacco sector declined steeply”; “child and forced labor were no longer present in the country’s relatively few remaining tobacco farms.”⁵³⁶ Child labor and forced labor had been effectively stopped thanks to the deliberate actions of a private business with the support of the Kazakh government. The Kazakhstan example demonstrates that industries may have to accept the destruction of profitable markets to abolish the more economically efficient methods of production involving forced and child labor.

A second case study provided by the ILAB’s List demonstrates the “critical role” government regulation and enforcement play in combating forced and child labor.⁵³⁷ The List explains how the shrimp industry in Thailand was transformed after it was included on the ILAB’s List in 2009.⁵³⁸ With guidance from the ILO, public and private relationships were formed in Thailand, which implemented a Good Labor Practices program that “supports the improvement of industry-wide labor standards through self-regulation with the goal of giving enterprises a competitive edge in export markets.”⁵³⁹ Child and forced labor abuses in the Thai shrimp industry were significantly reduced as industry “stakeholder[s] throughout the supply chain encourage[d] employers to take

⁵³⁴ United States Bureau of International Labor Affairs, *List of Goods*, 9.

⁵³⁵ *Ibid.*

⁵³⁶ *Ibid.*

⁵³⁷ *Ibid.*, 15.

⁵³⁸ *Ibid.*, 14.

⁵³⁹ *Ibid.*

ownership of eliminating forced and child labor” along with government action involving the deployment of inspectors and the enforcement of standards with appropriate “penalties prescribed by law.”⁵⁴⁰

D. THE SEX INDUSTRY

The DOL does not have statutory authority to regulate illicit labor markets, such as the sex industry, as it does not recognize sex work as labor in its standard occupational classification (SOC) system nor in its Occupational Outlook Handbook.⁵⁴¹ Individual state labor departments, guided by the DOL, are the main regulating bodies for related and adjacent fields, such as hospitality, entertainment enterprises, and especially massage parlors, which can be at the center of labor exploitation, illegal prostitution, and human trafficking.⁵⁴²

E. CRIME CONTROL

The DOL’s WHD is a civil labor law enforcement entity that plays a significant role combating labor trafficking by “taking aggressive action to identify and eliminate abusive labor practices that affect the most vulnerable in our society; investigators focus on low-wage industries where labor trafficking victims are most often found.”⁵⁴³ The DOL’s WHD and OIG participate in labor law and anti-labor trafficking enforcement efforts and “are actively working alongside law enforcement partners in the six pilot ACTeams.”⁵⁴⁴

The DOL’s WHD is the designated DOL authority to issue and certify U visas by “identify[ing] potential applicants in appropriate circumstances during the course of

⁵⁴⁰ United States Bureau of International Labor Affairs, *List of Goods*, 15.

⁵⁴¹ “Occupational Outlook Handbook,” accessed July 19, 2016, <http://www.bls.gov/ooh/a-z-index.htm>.

⁵⁴² Patrick Clark, “When a Massage Parlor Is Really a Brothel,” *BloombergBusinessweek*, September 22, 2014, <http://www.bloomberg.com/news/articles/2014-09-22/when-massage-parlors-hide-prostitution>.

⁵⁴³ United States Department of State, *Trafficking in Persons Report: June 2005*, 247.

⁵⁴⁴ United States Department of State, *Accomplishments Document*, 22.

workplace investigations.”⁵⁴⁵ The DOL’s WHD focuses on victim assistance by ensuring “full restitution for ... labor ... performed by computing back wages and liquidated damages.”⁵⁴⁶ The WHD also supports victim needs by “review[ing] employer records, and provid[ing] translation services where necessary, as well as help[ing] to identify potential cases in the course of regular WHD investigations.”⁵⁴⁷ DOL officials enforce labor standards in exploitive labor environments; they “are in workplaces every day, and often are the first government authorities to witness exploitive conditions and to talk to victims,”⁵⁴⁸ “review payroll records, and inspect migrant farm worker housing.”⁵⁴⁹

F. CONCLUSION

The DOL is essential to human trafficking prevention as it has influence on international labor standards and authority over domestic labor standards. By focusing on incentives, the DOL has taken an increasingly proactive role in reducing the viability of labor trafficking, thereby creating a more hostile environment for traffickers, and reducing the likelihood of exploitation by decreasing the value of forced labor. The DOL is the eyes and ears of the federal government, and its unique international and national presence allows it to be in a position to shine light into the shadows of low wage industries prone to exploitation. The DOL’s efforts to combat labor trafficking have been strengthened over time by increased initiative and proactivity by the federal government, especially domestically with respect to U-visa issuance and inter-departmental coordination.

⁵⁴⁵ Solis, “Remarks at the 2010 DOJ National Conference on Human Trafficking.”

⁵⁴⁶ United States Department of State, *Accomplishments Document*, 25.

⁵⁴⁷ *Ibid.*, 22.

⁵⁴⁸ United States Attorney-General, *Fiscal Year 2003*, 20.

⁵⁴⁹ United States Attorney-General, *Fiscal Year 2005*, 15.

VIII. CONCLUSION

After 9/11, the federal government supported securitization policies. The federal government vowed not to let a lack of imagination allow another previously impossible, if not unimaginable, attack occur. A new desire to counter the “possible ... [rather] than the probable,”⁵⁵⁰ became evident within the federal government, which externalized nearly all threats with a narrow focus on terrorism. This perspective is reflected in the execution of the war on terror, the invasion of Iraq, and in this case, the external conceptualization of the nature of human trafficking.

This thesis has illuminated that through experience and open-mindedness, the development of the TVPA, and its subsequent reauthorizations, have provided the applicable federal departments the appropriate guidance to identify and balance the external and internal aspects of human trafficking properly; a balance with only secondary consideration for the more diffuse linkages to terrorism and needs for securitization efforts.

It took time, but by the middle of the last decade, the appropriate attention was given to the internal and external nature of trafficking and its two aligned aspects of both sex and labor. Each federal department now works to fill the specific needs of trafficking victims appropriate to their assets and skill sets. All five departments together support the nation’s goal of eliminating human trafficking by influencing the leverage points of agency, labor, the sex industry, and crime control. The five departments are able to address human trafficking in ways that best suit their resources and expertise, and disincentivize future trafficking while providing necessary current relief options for victims.

The DOS leverages agency, labor rights, and crime control to initiate structural changes broadly in human trafficking by producing and controlling the dissemination of information, especially in its annual human trafficking response rankings. The DOJ

⁵⁵⁰ Dunn and Hassan, “Strategic Confusion,” 64.

leverages crime control to influence narrowly the structural rules pertaining to those perpetrating and directly supporting trafficking. The DHS, by targeting foreign national traffickers and supporters of trafficking for prosecution and deportation, significantly influences the structure of the sex industry. The HHS is very supportive of the agency and protection of trafficked and potentially trafficked victims, but only does so by providing temporary relief options that reduce some negative effects of trafficking. The DOL helps to initiate a paradigm shift in labor trafficking by putting emphasis on worker rights, labor standards, and economic disincentives for trafficked labor.

The overall issues of capitalist exploitation of labor markets, as well as socioeconomic disparity still have yet to be hashed out and are beyond the scope of individual departments and NGOs. The current state of federal efforts to combat human trafficking are encouraging, as they provide sufficient remedies to trafficking victims and trafficking disincentives, but is far from the global paradigm shift that would be required to eliminate the exploitation of vulnerable populations and individuals.

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